

<p style="text-align: center;">Page 1</p> <p style="text-align: center;">IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO EASTERN DIVISION - - -</p> <p>IN RE: NATIONAL : HON. DAN A. POLSTER PRESCRIPTION OPIATE : LITIGATION : : APPLIES TO ALL CASES : NO. : 1:17-MD-2804 - HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER CONFIDENTIALITY REVIEW - - - December 13, 2018 - - -</p> <p>Videotaped sworn deposition of DAVID A. MYERS, JR., taken pursuant to notice, was held at LIEFF CABRASER HEIMANN & BERNSTEIN, LLP, 250 Hudson Street, 8th Floor, New York, New York, beginning at 9:15 a.m., on the above date, before Margaret M. Reihl, a Registered Professional Reporter, Certified Shorthand Reporter, Certified Realtime Reporter, and Notary Public. - - -</p> <p style="text-align: center;">GOLKOW LITIGATION SERVICES 877.370.3377 ph 917.591.5672 fax deps@golkow.com</p>	<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES: 2 3 ROBBINS GELLER RUDMAN & DOWD LLP BY: MATTHEW S. MELAMED, ESQUIRE KELLI BLACK, ESQUIRE 4 Post-Montgomery Center One Montgomery Street, Suite 1800 5 San Francisco, California 94104 (415) 288-4545 6 mmelamed@rgrdlaw.com kblack@rgrdlaw.com 7 Representing the Plaintiffs 8 9 WAGSTAFF & CARTMELL LLP BY: JONATHAN P. KIEFFER, ESQUIRE SARAH RUANE, ESQUIRE 10 4740 Grand Avenue, Suite 300 Kansas City, Missouri 64112 11 (816) 701-1100 jpkieffer@wcllp.com 12 Representing the Plaintiffs 13 14 MORGAN LEWIS & BOCKIUS, LLP BY: STACEY ANNE MAHONEY, ESQUIRE 101 Park Avenue 15 New York, New York 10178-0060 (212) 309-6930 16 stacey.mahoney@morganlewis.com - AND - 17 BY: LIZA B. FLEMING, ESQUIRE 1701 Market St. 18 Philadelphia, Pennsylvania 19103-2921 (215) 963-4610 19 liza.fleming@morganlewis.com Representing the Defendant Teva 20 21 KIRKLAND & ELLIS LLP BY: ERICA B. ZOLNER, ESQUIRE PRATIK GHOSH, ESQUIRE 22 300 North LaSalle Street Chicago, Illinois 60654 23 (312) 862-3247 erica.zolner@kirkland.com 24 Representing the Defendant Allergan</p>
<p style="text-align: right;">Page 3</p> <p>1 APPEARANCES: (cont'd) 2 3 WILLIAMS & CONNOLLY LLP BY: JOEL S. JOHNSON, ESQUIRE 725 Twelfth Street, N.W. 4 Washington, D.C. 20005 (202) 434-5091 5 jjohnson@wc.com Representing the Defendant, 6 Cardinal Health 7 8 JONES DAY BY: CHRISTOPHER J. LOVRIEN, ESQUIRE 555 South Flower Street 9 Fiftieth Floor Los Angeles, California 90071-2452 10 (213) 489-3939 cjlovrien@jonesday.com 11 Representing the Defendant, Walmart 12 13 14 ALSO PRESENT: HENRY MARTE, VIDEOGRAPHER 15 16 - - - 17 18 19 20 21 22 23 24</p>	<p style="text-align: right;">Page 4</p> <p>1 TELEPHONIC APPEARANCES: 2 3 ARNOLD & PORTER KAYE SCHOLER LLP BY: DAVID FAUVRE, ESQUIRE 601 Massachusetts Ave, NW 4 Washington, DC 20001-3743 (202) 942-5041 5 david.fauvre@arnoldporter.com Representing the Defendants, Endo 6 Health Solutions; Endo Pharmaceuticals, Inc.; Par 7 Pharmaceutical Companies, Inc. f/k/a Par Pharmaceutical Holdings, Inc. 8 9 10 REED SMITH LLP BY: CHRISTIAN W. SAUCEDO, ESQUIRE Three Logan Square 11 1717 Arch Street Philadelphia, Pennsylvania 19103 12 (215) 851-8262 csaucedo@reedsmith.com 13 Representing the Defendant, AmerisourceBergen Drug Corp. 14 15 COVINGTON & BURLING LLP BY: CLAYTON BAILEY, ESQUIRE The New York Times Building 16 620 Eighth Avenue New York, New York 10018-1405 17 (212) 841-1285 cbailey@cov.com 18 Representing the Defendant, McKesson Corporation 19 20 21 BARON BUDD, P.C. BY: GRETCHEN KEARNEY, Paralegal 600 New Hampshire Avenue, NW 22 Suite 10A Washington, D.C. 20037 23 (202) 333-4562 gkearney@baronbudd.com 24 Representing the Plaintiffs</p>

1 THE VIDEOGRAPHER: We are now on
 2 the record. My name is Daniel
 3 Holmstock, I am the videographer for
 4 Golkow Litigation Services. Today's
 5 date is December 3th, 2018, and the time
 6 on the video screen is 9:15 a.m. This
 7 video deposition is being held at 250
 8 Hudson Street, the eighth floor, New
 9 York, New York in the matter of In Re:
 10 National Prescription Opiate Litigation.
 11 It's pending before the United States
 12 District Court for the Northern District
 13 of Ohio, Eastern Division.
 14 The deponent today is Mr. David
 15 Myers. Counsel will be noted on the
 16 stenographic record for appearances.
 17 The court reporter is Peg Reihl,
 18 who will now administer the oath.
 19 ... DAVID A. MYERS, JR., having been
 20 duly sworn as a witness, was examined and
 21 testified as follows:
 22 BY MR. MELAMED:
 23 Q. Good morning.
 24 A. Good morning.

1 Q. My name is Matt Melamed from the
 2 law firm Robbins Geller Rudman & Dowd, and I
 3 represent plaintiffs in this matter.
 4 Can you state your full name and
 5 your address for the record, please.
 6 A. My name is David Allen Myers,
 7 [REDACTED]
 8 [REDACTED].
 9 Q. And what is your current
 10 occupation?
 11 A. I am associate director of
 12 marketing.
 13 Q. At what company?
 14 A. Teva Pharmaceuticals.
 15 Q. And where is your business
 16 address?
 17 A. 400 Interpace Parkway, Building
 18 A, Parsippany, New Jersey.
 19 Q. You understand you're under oath,
 20 correct?
 21 A. Yes, I do.
 22 Q. Are you taking any medication, or
 23 is there any other reason that would interfere
 24 with your ability to answer fully and truthfully

1 today?
 2 A. No.
 3 Q. If I ask you a question during
 4 the course of today's deposition that you don't
 5 understand, please ask me to clarify. It's my
 6 job to ask clear questions, okay?
 7 A. Understood.
 8 Q. Have you ever testified at a --
 9 in a deposition before?
 10 A. Once before.
 11 Q. About how long ago was that?
 12 A. Within the year.
 13 Q. And what was the substance of --
 14 what did the substance of the deposition
 15 concern?
 16 MS. MAHONEY: Objection.
 17 THE WITNESS: I was a witness in
 18 a separate litigation.
 19 BY MR. MELAMED:
 20 Q. Did it involve Teva?
 21 A. Teva was not the target of the --
 22 of the deposition.
 23 Q. Did you provide testimony because
 24 of your experience at Teva?

1 A. Yes.
 2 Q. Did it have anything to do with
 3 opioids?
 4 A. Yes.
 5 Q. Can you tell me the name of the
 6 litigation, please?
 7 A. I don't remember the name of the
 8 litigation.
 9 Q. Was Teva a plaintiff in the
 10 litigation, if you know?
 11 A. No.
 12 Q. Was it a defendant in the
 13 litigation, if you know?
 14 A. No.
 15 Q. It was a third party?
 16 A. It was a third party.
 17 MS. MAHONEY: Objection.
 18 THE WITNESS: Yes.
 19 BY MR. MELAMED:
 20 Q. And you understand that while
 21 your counsel -- you've done so and you've
 22 demonstrated this understanding, but while
 23 counsel may make objections, you're still
 24 required to answer the question after she

<p style="text-align: right;">Page 13</p> <p>1 objects, unless she instructs you not to answer</p> <p>2 and you decide to follow that instruction.</p> <p>3 A. Understood.</p> <p>4 Q. Okay. You've also done a very</p> <p>5 good job of waiting for me to finish my</p> <p>6 question, even when I pause, I appreciate that.</p> <p>7 I know it's unnatural. I will try and do you</p> <p>8 the same -- the same courtesy, and I apologize</p> <p>9 in advance if I have to remind you or remind</p> <p>10 myself to allow each other to finish, okay?</p> <p>11 A. Understood. The day is young.</p> <p>12 Q. You mentioned that that</p> <p>13 deposition in which you appeared concerned</p> <p>14 opioids, correct?</p> <p>15 A. Yes.</p> <p>16 Q. Did it concern specific opioids?</p> <p>17 MS. MAHONEY: Objection.</p> <p>18 THE WITNESS: Yes.</p> <p>19 BY MR. MELAMED:</p> <p>20 Q. What opioids did it concern?</p> <p>21 A. Generic Opana ER, oxymorphone</p> <p>22 extended release.</p> <p>23 Q. Do you know the -- do you have</p> <p>24 any understanding of the nature of the lawsuit</p>	<p style="text-align: right;">Page 14</p> <p>1 in which you were deposed? Was it a personal</p> <p>2 injury matter, for instance, or a patent matter,</p> <p>3 et cetera?</p> <p>4 MS. MAHONEY: Objection.</p> <p>5 MS. ZOLNER: Object to the form.</p> <p>6 THE WITNESS: As I understand it,</p> <p>7 it was two other groups that were making</p> <p>8 a charge against the brand company Endo</p> <p>9 and their actions they took to prevent</p> <p>10 generic Opana from coming to the market.</p> <p>11 BY MR. MELAMED:</p> <p>12 Q. Do you know the -- you mentioned</p> <p>13 two other groups. Do you know the identity of</p> <p>14 those two other groups?</p> <p>15 A. I know essentially what they did.</p> <p>16 I don't know their formal names. One was -- one</p> <p>17 I believe was a consumer advocacy group, and the</p> <p>18 other represented wholesalers and distributors.</p> <p>19 That's what I believe.</p> <p>20 Q. And you testified truthfully in</p> <p>21 that deposition, correct?</p> <p>22 A. Of course.</p> <p>23 Q. Have you ever testified in any</p> <p>24 other trial or legal proceeding?</p>
<p style="text-align: right;">Page 15</p> <p>1 MS. MAHONEY: Objection.</p> <p>2 THE WITNESS: No.</p> <p>3 BY MR. MELAMED:</p> <p>4 Q. Who are the people seated with</p> <p>5 you today?</p> <p>6 A. Counsel for Teva and counsel for</p> <p>7 Allergan.</p> <p>8 Q. Are they your attorneys here</p> <p>9 representing you today?</p> <p>10 A. They're representing my company.</p> <p>11 Q. Are you personally represented by</p> <p>12 any attorneys here today?</p> <p>13 A. No.</p> <p>14 (Document marked for</p> <p>15 identification as Myers Deposition</p> <p>16 Exhibit No. 1.)</p> <p>17 BY MR. MELAMED:</p> <p>18 Q. I'm going to hand you what's been</p> <p>19 marked as Exhibit Number 1.</p> <p>20 A. Okay.</p> <p>21 Q. Exhibit Number 1 is titled</p> <p>22 Plaintiffs' Amended Notice of Oral Videotaped</p> <p>23 Fact Deposition of David Myers.</p> <p>24 Have you seen this document</p>	<p style="text-align: right;">Page 16</p> <p>1 before?</p> <p>2 A. Yes.</p> <p>3 Q. And when do you recall first</p> <p>4 seeing this?</p> <p>5 A. Yesterday.</p> <p>6 Q. And you understand that you're</p> <p>7 here today to testify as a result of this -- the</p> <p>8 notice reflected in Exhibit 1, correct?</p> <p>9 A. Yes.</p> <p>10 Q. Did you bring any documents with</p> <p>11 you today?</p> <p>12 A. No. I -- let me clarify, I</p> <p>13 brought my briefcase over at the other side of</p> <p>14 the room, but there are no documents pertaining</p> <p>15 to this litigation, other than where to show up</p> <p>16 and what time.</p> <p>17 Q. And is that a handwritten note</p> <p>18 that's where to show up and what time?</p> <p>19 A. A note that I wrote, yes.</p> <p>20 Q. And there's nothing else on that</p> <p>21 note, other than the time and location?</p> <p>22 A. The time and location and contact</p> <p>23 names for counsel.</p> <p>24 Q. Did you provide any documents to</p>

1 counsel in advance of this litiga -- in advance
 2 of this deposition?
 3 A. No.
 4 Q. So what did you do to prepare to
 5 be deposed today?
 6 MS. MAHONEY: Objection.
 7 THE WITNESS: I met with the
 8 counsels for both Teva and Allergan, who
 9 took me through some of the documents.
 10 MS. MAHONEY: I want to caution
 11 you not to share any of the discussion
 12 or content. You can tell him that we
 13 met and for how long.
 14 THE WITNESS: Okay. We met
 15 yesterday from 9:30 till approximately
 16 5:00, 5:30.
 17 BY MR. MELAMED:
 18 Q. And that meeting yesterday from
 19 9:30 to 5:30 approximately was with counsel from
 20 both Teva and Allergan?
 21 A. Yes, sir.
 22 Q. Did you have any phone
 23 conversations with anyone pertaining to this
 24 deposition prior to yesterday?

1 A. No.
 2 Q. You mentioned that you reviewed
 3 documents during that -- yesterday's preparation
 4 for today's deposition, correct?
 5 A. Yes.
 6 Q. Did you review any depositions
 7 given in this matter during your preparation
 8 yesterday?
 9 A. No.
 10 Q. Did you review any reports or
 11 memoranda issued by experts pertaining to this,
 12 this litigation when you were -- during your
 13 preparation yesterday?
 14 MS. ZOLNER: Object to the form.
 15 MS. MAHONEY: Object.
 16 THE WITNESS: No, not that I
 17 remember.
 18 BY MR. MELAMED:
 19 Q. Did you review any court
 20 documents during your preparation yesterday?
 21 A. Could you define a court
 22 document?
 23 Q. Sure. I'll ask it more
 24 specifically.

1 Did you review anything that you
 2 know to have been filed in this court -- let me
 3 withdraw that.
 4 Did you review anything that you
 5 know to have been filed in court in this case
 6 during your preparation yesterday?
 7 A. No. The only thing I'm aware of
 8 that is a court document is this one you handed
 9 me previously, which is my summons, I believe.
 10 Q. Fair enough.
 11 Did you review any electronic
 12 records yesterday, and by that I mean things on
 13 a computer that weren't necessarily printed out
 14 as documents for you to review?
 15 A. No.
 16 Q. Did you review any databases
 17 yesterday in your preparation?
 18 MS. MAHONEY: Objection.
 19 THE WITNESS: No.
 20 BY MR. MELAMED:
 21 Q. Have you looked in your own
 22 personal paper or electronic files to identify
 23 documents that might be relevant to the opioid
 24 litigation for which -- pursuant to which you're

1 being deposed today?
 2 MS. MAHONEY: Objection.
 3 THE WITNESS: Yes.
 4 BY MR. MELAMED:
 5 Q. What types of documents did you
 6 look for?
 7 A. This was quite some time ago when
 8 the collection of documents was going on and I
 9 was requested to pull anything that I had
 10 pertaining and hand it over to counsel.
 11 Q. Who made that request?
 12 A. I don't remember. Probably the
 13 legal team at Teva. I was asked --
 14 MS. MAHONEY: We don't need to
 15 get into attorney-client communication.
 16 THE WITNESS: Okay. Thank you.
 17 BY MR. MELAMED:
 18 Q. Just to be clear, I'm not -- I'm
 19 not asking for the substance of your
 20 communications with your attorneys.
 21 A. Okay, understood, thank you.
 22 Thank you.
 23 Q. When you conducted that search,
 24 you provided all of the documents that you found

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1 in your search to counsel; is that correct?
2 A. Yes.
3 Q. Do you know whether those
4 documents have been produced during discovery in
5 this litigation?
6 MS. MAHONEY: Objection.
7 THE WITNESS: I'm not sure.
8 BY MR. MELAMED:
9 Q. When did you first learn you were
10 going to be deposed in this litigation?
11 A. I don't remember the exact date.
12 I know that investigation had been going on for
13 some time.
14 Q. Approximately when, was it
15 this -- within the last month, prior to the last
16 month, et cetera?
17 MS. MAHONEY: Objection.
18 THE WITNESS: Probably within the
19 last three to four months, I believe. I
20 can't be sure of the date again.
21 BY MR. MELAMED:
22 Q. Fair enough.
23 Do you recall how you learned?
24 A. No.

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1 A. No.
2 Q. Other than you?
3 A. Other than me.
4 Q. Are you being reimbursed by
5 anyone for your expenses in connection with this
6 deposition?
7 A. Yes.
8 Q. What expenses are you being
9 reimbursed for?
10 A. Teva will pay for my hotel and
11 for specific meals up to a certain amount within
12 a limit.
13 Q. And how many nights of hotel will
14 Teva pay for?
15 A. Two.
16 Q. And loosely equivalent number of
17 meals the day -- the meals for approximately two
18 days?
19 MS. MAHONEY: Objection.
20 THE WITNESS: Breakfast, lunch
21 and dinner would be appropriate.
22 BY MR. MELAMED:
23 Q. For each of the days you're --
24 A. Yes.

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1 Q. Have you spoken to anybody, aside
2 from your lawyers with whom you met yesterday,
3 about this deposition?
4 A. I spoke to my boss, not about the
5 deposition, but to tell him that I was being
6 deposed and the dates that I would be out of the
7 office and to make sure that I was okay to make
8 travel arrangements.
9 Q. Did you speak to any family
10 members about today's deposition?
11 A. Yes.
12 Q. With whom did you speak?
13 A. I spoke to my partner, not about
14 the substance, but about that I would be
15 deposed.
16 Q. Anyone else?
17 A. Not that I recall.
18 Q. Was anyone aside from your --
19 from lawyers for Teva and Allergan present
20 during yesterday's meeting?
21 A. No.
22 Q. There was no one from either
23 the -- from either Teva or Allergan themselves
24 at the meeting?

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1 Q. -- you've had to travel for the
2 deposition?
3 A. Yes.
4 Q. Were you compensated by anyone
5 for your time in connection for review --
6 searching your documents to provide your
7 attorneys that you referred to earlier?
8 A. No. Well, I earned my salary,
9 and it was done on work time, so to be specific.
10 Q. No compensation other than your
11 salary?
12 A. No, my salary.
13 Q. Yes, thank you for the
14 clarification.
15 Have you ever received any
16 compensation from any opioid manufacturer to be
17 a speaker at a conference?
18 MS. MAHONEY: Objection.
19 THE WITNESS: No.
20 BY MR. MELAMED:
21 Q. Have you ever received any
22 compensation from any opioid distributor to be a
23 speaker at a conference?
24 MS. MAHONEY: Objection.

<p style="text-align: right;">Page 25</p> <p>1 THE WITNESS: No.</p> <p>2 BY MR. MELAMED:</p> <p>3 Q. Have you ever received</p> <p>4 compensation from any pharmacy to be a speaker</p> <p>5 at a conference?</p> <p>6 A. No.</p> <p>7 Q. Have you ever received any</p> <p>8 compensation from any opioid manufacturer other</p> <p>9 than Actavis and its associated companies or</p> <p>10 Teva and its associated companies?</p> <p>11 MS. MAHONEY: Objection.</p> <p>12 THE WITNESS: No.</p> <p>13 BY MR. MELAMED:</p> <p>14 Q. Have you ever received dinners</p> <p>15 from any opioid manufacturer, other than the one</p> <p>16 that was presently employing you?</p> <p>17 A. No.</p> <p>18 Q. Have you ever received any</p> <p>19 dinners from any distributor of opioids?</p> <p>20 A. No.</p> <p>21 Q. Same question for pharmacy, have</p> <p>22 you ever received any dinners from any</p> <p>23 pharmacies?</p> <p>24 MS. MAHONEY: Objection.</p>	<p style="text-align: right;">Page 26</p> <p>1 THE WITNESS: No.</p> <p>2 BY MR. MELAMED:</p> <p>3 Q. What about trips, have you ever</p> <p>4 received any compensation or been provided a</p> <p>5 trip by any opioid manufacturer, other than the</p> <p>6 one that you -- that you are presently employed</p> <p>7 by?</p> <p>8 MS. MAHONEY: Objection.</p> <p>9 THE WITNESS: No.</p> <p>10 BY MR. MELAMED:</p> <p>11 Q. Have you ever attended any</p> <p>12 training sessions specific to opioids in any</p> <p>13 way?</p> <p>14 A. No.</p> <p>15 (Document marked for</p> <p>16 identification as Myers Deposition</p> <p>17 Exhibit No. 2.)</p> <p>18 BY MR. MELAMED:</p> <p>19 Q. I'm going to hand you what's been</p> <p>20 marked as Myers Exhibit 2.</p> <p>21 For the record, Myers Exhibit 2</p> <p>22 is a -- it appears to be several hundred pages</p> <p>23 of documents beginning at</p> <p>24 ALLERGAN_MDL_SUPP_00000810.</p>
<p style="text-align: right;">Page 27</p> <p>1 I'll represent to you that these</p> <p>2 are your personnel file that was produced in</p> <p>3 litigation.</p> <p>4 Just an initial question, if you</p> <p>5 flip through, you'll notice that a substantial</p> <p>6 number of pages are stamped redacted.</p> <p>7 Do you see that?</p> <p>8 A. Yes.</p> <p>9 MS. MAHONEY: Objection.</p> <p>10 THE WITNESS: Yes.</p> <p>11 BY MR. MELAMED:</p> <p>12 Q. Do you have any understanding,</p> <p>13 without telling me what the information is, do</p> <p>14 you have any understanding of what information</p> <p>15 has been redacted on these pages?</p> <p>16 A. No. I do not know the full</p> <p>17 contents of my personnel file.</p> <p>18 Q. Can you think of any experiences</p> <p>19 during your employment at Actavis and at Teva</p> <p>20 that could have resulted in pages in your</p> <p>21 personnel file that would be redacted for</p> <p>22 privileged attorney-client communications?</p> <p>23 MS. MAHONEY: Objection.</p> <p>24 THE WITNESS: I have no</p>	<p style="text-align: right;">Page 28</p> <p>1 knowledge. I wouldn't know.</p> <p>2 MR. MELAMED: Counsel, I'll</p> <p>3 represent to you that our search of the</p> <p>4 privilege log didn't reflect the reason</p> <p>5 that these pages were redacted, so if</p> <p>6 you could get that information to us,</p> <p>7 we'd appreciate it.</p> <p>8 MS. ZOLNER: So a couple of</p> <p>9 things. First of all, the information</p> <p>10 from Mr. Myers' personnel files were</p> <p>11 produced to you by both Allergan and by</p> <p>12 Teva. The version that you got from</p> <p>13 Teva did not include the same</p> <p>14 redactions. The information that was</p> <p>15 redacted was personal information that</p> <p>16 had nothing to do with any of the</p> <p>17 information that was requested in the</p> <p>18 personnel files, but you do have the</p> <p>19 information in an unredacted version</p> <p>20 that was provided by Teva.</p> <p>21 MR. MELAMED: Okay. And is</p> <p>22 the -- are you representing that the</p> <p>23 unredacted version provided by Teva is</p> <p>24 the same documents -- it contains the</p>

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1 same precise documents as the version
 2 that's been marked as Exhibit 2?
 3 MS. ZOLNER: That's my
 4 understanding, yes.
 5 BY MR. MELAMED:
 6 Q. All right. If you could turn to
 7 the page -- I'm going to refer to Bates numbers
 8 during the liti -- during the deposition. Those
 9 are the numbers that are stamped at the bottom
 10 of -- bottom right corner of these pages.
 11 A. Yeah.
 12 Q. If you turn to the page with the
 13 Bates number ending 830.
 14 MS. MAHONEY: And, for the
 15 record, counsel, because I can't flip
 16 through all these pages, are you
 17 representing that this is a complete
 18 compilation of the document from Bates
 19 number ending 810 through 1121, and that
 20 no pages are missing?
 21 MR. MELAMED: Yes.
 22 BY MR. MELAMED:
 23 Q. So this appears to -- let me ask
 24 this as a question: Is this your resume that

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1 you prepared on or about June 1993?
 2 A. No.
 3 Q. Do you know who prepared this
 4 resume?
 5 A. I prepared this resume, but it
 6 wasn't prepared on June 1993.
 7 Q. Do you know when it was prepared?
 8 A. Oh, I'm sorry. I'm sorry. Yes,
 9 yes, on or about June 1993. I'm sorry.
 10 Carefully read the document.
 11 Q. Yeah, and I'll rep -- I'll
 12 represent to you, so counsel is comfortable with
 13 this and so you're comfortable, my intent with
 14 this document, this voluminous document is just
 15 to look at these few pages for -- at this point
 16 in time. So, hopefully, you don't need to flip
 17 through the rest of it.
 18 MS. MAHONEY: We'll proceed until
 19 we do need to flip through the rest of
 20 it.
 21 MR. MELAMED: Fair enough.
 22 BY MR. MELAMED:
 23 Q. So if you turn to 831, the second
 24 page of the resume. It states that you received

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1 your education at Edinboro University in
 2 Pennsylvania; is that correct?
 3 A. Yes.
 4 Q. And you majored in computer
 5 science and minored in math, correct?
 6 A. Yes.
 7 Q. And then you attended Cleveland
 8 State University from 1997 to 19 -- I'm sorry --
 9 1987 to 1988 as a part-time student, correct?
 10 A. Yes.
 11 Q. Did you receive your -- a degree
 12 from either institution?
 13 A. No.
 14 Q. And then working up your -- what
 15 appears to be your professional experience
 16 section, which is referred to on 830 and work
 17 up, you worked as an order entry supervisor --
 18 I'm sorry. Let me withdraw that.
 19 You worked from 1985 to 1987 at
 20 Leichtung, Incorporated in Warrensville, Ohio;
 21 is that correct?
 22 A. Yes.
 23 Q. And before that you worked as a
 24 teller at Central National Bank during college,

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1 as summer employment, correct?
 2 A. Yes.
 3 Q. If you turn to 830, the remainder
 4 of your professional experience up to 1993 was
 5 at a company called Ecocenters Corporation in
 6 Beachwood, Ohio; is that correct?
 7 A. Yes.
 8 Q. What did Echocenters Corporation
 9 do at that time?
 10 A. They were a computer services
 11 firm which specialized in electronic printing,
 12 typesetting and advertising, mailing
 13 advertising.
 14 Q. And by the time you left, you had
 15 worked your way up to be an account manager,
 16 correct?
 17 A. Yes.
 18 Q. And as an account manager, you
 19 were the primary customer contact for certain
 20 customers of Ecocenters Corporation?
 21 A. Yes, after the salesperson had
 22 received a signed contract, they were turned
 23 over to me to manage their business.
 24 Q. You can put this document aside.

<p style="text-align: right;">Page 33</p> <p>1 (Document marked for 2 identification as Myers Deposition 3 Exhibit No. 3.) 4 BY MR. MELAMED: 5 Q. I'm handing you what's been 6 marked as Exhibit 3, which is -- the first page 7 is an e-mail from David Myers to an e-mail 8 address esthilaire@lupinusa.com? 9 A. Yes. 10 Q. Sent September 13, 2012, starts 11 at Bates number Acquired_Actavis_00626098, and 12 then there's an attachment thereto that starts 13 the next Bates number is 099 and continues 14 through 0100. 15 Do you recognize this document? 16 A. Yes. 17 Q. You sent this to somebody because 18 you were interested in potentially securing 19 employment at that person's company, correct? 20 MS. MAHONEY: Objection. 21 THE WITNESS: Yes. 22 BY MR. MELAMED: 23 Q. And the second and third pages of 24 this exhibit, which are 099 and 100 reflect a --</p>	<p style="text-align: right;">Page 34</p> <p>1 reflect your -- did you prepare those pages? 2 Let me start there. Did you prepare the pages 3 at 099 and 100? 4 A. I believe so. 5 Q. And this is your resume, correct? 6 A. A former resume. 7 Q. A resume up through 8 September 13th, 2012; is that accurate? 9 A. Yes. 10 Q. And so after leaving Ecocenters, 11 you were hired by a company called Alpharma, 12 correct? 13 A. Yes. It was more commonly known 14 as Barre-NMC at the time, I believe. 15 Q. Can you spell that for me? 16 A. Barre is spelled B-a-r-r-e-N, as 17 in Nancy, M as in Mary, C as in cream. 18 Q. Is there a point at which 19 Barre-NMC became more commonly known as 20 Alpharma? 21 A. Yes. 22 Q. About when did that happen? 23 A. I think in 1996. 24 Q. Do you rem -- do you recall the</p>
<p style="text-align: right;">Page 35</p> <p>1 reason that that happened? 2 MS. ZOLNER: Objection, 3 foundation. 4 THE WITNESS: It wasn't a change 5 in company ownership. I believe it was 6 just a uniting the company under one 7 name. 8 BY MR. MELAMED: 9 Q. So you were, starting again from 10 the first in time item on your professional 11 experience listed on this resume, so we're on 12 page ending Bates Number 100. 13 A. Yes. 14 Q. It says sales associate, 15 Alpharma, Baltimore, Maryland? 16 A. Mm-hmm. 17 Q. Do you recall who you reported to 18 as a sales associate at that point? 19 A. Yes, I do. 20 Q. Who was that person? 21 A. Susan Barret. 22 Q. Is Susan Barret -- do you know 23 where Susan Barret is presently employed? 24 A. Susan Barret --</p>	<p style="text-align: right;">Page 36</p> <p>1 MS. ZOLNER: Objection. 2 THE WITNESS: Susan Barret is now 3 Susan Cameen, and she owns her own 4 business. 5 BY MR. MELAMED: 6 Q. Do you know when she left 7 Alpharma? 8 A. I don't recall. 9 Q. Your description of your job 10 during this time period is that you "provided 11 superior customer service to assigned 12 pharmaceutical wholesalers." We'll start there. 13 A. Yes. 14 Q. Do you recall who the assigned 15 pharmaceutical wholesalers were? 16 A. No, I do not. 17 Q. And what -- what customer service 18 did you provide those wholesalers? 19 A. Essentially managing their 20 orders, order entry, communicating back orders, 21 order fulfillment, those types of daily 22 processes. 23 Q. And the second sentence says, 24 "supported marketing and sales efforts of West</p>

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1 Coast sales manager"?
 2 A. Yes.
 3 Q. Was the West Coast sales manager
 4 the person you just identified as Susan --
 5 formerly Susan Barret?
 6 A. No.
 7 Q. Who is the West Coast sales
 8 manager, if you recall?
 9 A. I believe his name was Dwight
 10 Nix.
 11 Q. Do you know if Dwight Nix -- do
 12 you know what Dwight Nix's current employment
 13 is?
 14 MS. MAHONEY: Objection.
 15 THE WITNESS: I do not know.
 16 BY MR. MELAMED:
 17 Q. Do you recall how you supported
 18 his marketing and sales efforts?
 19 A. Yes.
 20 Q. What did you do?
 21 A. Essentially, I reported to Susan
 22 Barret, but I was teamed with a salesperson,
 23 Dwight Nix, and every account that he was
 24 assigned to, I was assigned to, so we would work

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1 shipping status, tracing, things like that, any
 2 issues that the customer might bring about their
 3 orders in, orders out. That would be the aspect
 4 of the sales or of the customer service portion.
 5 Q. Do you recall the assigned
 6 accounts to whom you provided that service?
 7 A. No.
 8 Q. Was there a geographical
 9 designation for those accounts?
 10 A. I don't believe so.
 11 Q. Do you recall whether they were
 12 national accounts?
 13 A. Yes, some were.
 14 Q. Do you recall the identity of
 15 those some accounts that were national or some
 16 of the accounts that were national?
 17 A. Yes.
 18 Q. Who were they?
 19 A. I believe Walgreens, Rite Aid
 20 were two of them.
 21 Q. And what are OTC private label
 22 products?
 23 A. Over-the-counter is OTC.
 24 Pharmaceuticals do not -- that do not require a

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1 in tandem for any issues he had with his
 2 customers. I was almost like what you might
 3 refer to as an assistant.
 4 Q. And then you were in that
 5 position from 1993 to '94?
 6 A. Mm-hmm.
 7 Q. And then proceeded to become a
 8 sales specialist from 1994 to '99, correct?
 9 A. Yes.
 10 Q. Was that a promotion?
 11 A. Yes.
 12 Q. Do you recall who you reported to
 13 at that time?
 14 A. No.
 15 Q. The description states that you
 16 "provided all aspects of customer service to
 17 assigned accounts as well as sales of OTC
 18 private label products," correct?
 19 A. Yes.
 20 Q. What do you mean by "all aspects
 21 of customer service"?
 22 A. It would include all of the
 23 aspects that were in the previous position, so
 24 order availability, product availability,

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1 prescription.
 2 Frequently, national retailers
 3 like Walgreens or Rite Aid will offer products
 4 with their label on it or their -- you know,
 5 their branding, and we would manufacture those
 6 for them.
 7 Q. The second sentence of your
 8 description states that you "communicated new
 9 products information and pricing changes to
 10 pharmaceutical buyers"?
 11 A. Yes.
 12 Q. How would you do that?
 13 A. I believe through e-mail and
 14 letters, written type notices.
 15 Q. Was there a regularly scheduled
 16 written notice, do you recall, during that time
 17 period?
 18 MS. MAHONEY: Objection.
 19 THE WITNESS: No, I don't really
 20 recall anything of that nature.
 21 BY MR. MELAMED:
 22 Q. After working as a sales
 23 specialist, you became a senior sales associate
 24 from 1999 to 2001, correct?

<p style="text-align: right;">Page 41</p> <p>1 A. Yes.</p> <p>2 Q. Was that position a promotion?</p> <p>3 A. Yes.</p> <p>4 Q. Do you recall who you reported</p> <p>5 to?</p> <p>6 A. I don't recall his name.</p> <p>7 Q. Did you have any reports in this</p> <p>8 position? Did anybody report to you?</p> <p>9 MS. MAHONEY: Objection.</p> <p>10 THE WITNESS: No.</p> <p>11 BY MR. MELAMED:</p> <p>12 Q. And in this position it states</p> <p>13 that you managed daily activities on all</p> <p>14 consumer products over-the-counter, private</p> <p>15 label and business development accounts,</p> <p>16 correct?</p> <p>17 A. Yes.</p> <p>18 Q. Does that mean you were the</p> <p>19 manager primarily responsible for all of the</p> <p>20 described account relationships, and by "the</p> <p>21 described account relationships," I'm just --</p> <p>22 I'll use the words that I was trying to say to</p> <p>23 make it clear, the consumer products, OTC,</p> <p>24 private label and business development accounts?</p>	<p style="text-align: right;">Page 42</p> <p>1 MS. MAHONEY: Objection.</p> <p>2 THE WITNESS: I think that --</p> <p>3 that your question is vague in a way. I</p> <p>4 was a senior sales associate who had</p> <p>5 responsibility for all accounts, but I</p> <p>6 wasn't the only person managing those</p> <p>7 accounts. So I wanted to clarify that.</p> <p>8 BY MR. MELAMED:</p> <p>9 Q. I appreciate that. Thank you.</p> <p>10 Now, was this all of the customer</p> <p>11 accounts that existed at Alpharma at the time?</p> <p>12 A. It could be --</p> <p>13 MS. MAHONEY: Objection.</p> <p>14 THE WITNESS: It could be any</p> <p>15 account that existed for consumer</p> <p>16 products, OTC, private label customers.</p> <p>17 At this time not prescription, but they</p> <p>18 could overlap.</p> <p>19 BY MR. MELAMED:</p> <p>20 Q. So there were other types of</p> <p>21 accounts for which you did not necessarily have</p> <p>22 responsibility as the senior sales associate;</p> <p>23 you mentioned pharmaceutical, for instance?</p> <p>24 MS. MAHONEY: Objection.</p>
<p style="text-align: right;">Page 43</p> <p>1 THE WITNESS: I'm not sure I</p> <p>2 understand the question. Can you --</p> <p>3 BY MR. MELAMED:</p> <p>4 Q. Did you have -- did you manage</p> <p>5 daily activities on all pharmaceutical accounts</p> <p>6 at this point in time in this position?</p> <p>7 MS. MAHONEY: Objection,</p> <p>8 foundation.</p> <p>9 THE WITNESS: No.</p> <p>10 BY MR. MELAMED:</p> <p>11 Q. Next sentence says you "created</p> <p>12 demand forecasts for business development</p> <p>13 division customers by utilizing demand solutions</p> <p>14 software."</p> <p>15 Can you walk me through how you</p> <p>16 created those demand forecasts at this point in</p> <p>17 time?</p> <p>18 A. From what I remember, the</p> <p>19 business development division would come with</p> <p>20 new business, I would interface with them and</p> <p>21 potentially have conversations with the</p> <p>22 customers about their demands and needs. I</p> <p>23 would then build a forecast for them, enter it</p> <p>24 into our software so that the plant could begin</p>	<p style="text-align: right;">Page 44</p> <p>1 to manufacture the product to their needs.</p> <p>2 Q. The third bullet point, it states</p> <p>3 that you served as a member of corporate Core</p> <p>4 Values/Basic Principles Committee.</p> <p>5 Do you see that?</p> <p>6 A. I do.</p> <p>7 Q. What was the purpose of that</p> <p>8 committee?</p> <p>9 A. The purpose of the committee was</p> <p>10 to promote awareness of the company's values,</p> <p>11 the basic principles by which we do business and</p> <p>12 to ensure that they were promoted and followed</p> <p>13 by employees.</p> <p>14 Q. How were those core values and</p> <p>15 basic principles communicated to employees?</p> <p>16 A. Through various means. Corporate</p> <p>17 posters, corporate meetings, town hall meetings,</p> <p>18 where they were presented, the meetings</p> <p>19 discussed and examples of what that -- of living</p> <p>20 that core value and working in that core value</p> <p>21 would -- how it would be represented.</p> <p>22 Q. Do you recall why you were</p> <p>23 selected to be a member of that committee?</p> <p>24 A. Look at me. I'm sorry. Because</p>

<p style="text-align: right;">Page 45</p> <p>1 I was well known and regarded in amongst my</p> <p>2 peers in my department, and I believe that that</p> <p>3 was why I was selected as a person that could</p> <p>4 communicate and build coalition with my peers.</p> <p>5 Q. Were you selected to represent</p> <p>6 the department?</p> <p>7 A. There were numerous members of</p> <p>8 the Core Values/Basic Principles Committee. I</p> <p>9 was one person in one area. I don't recall that</p> <p>10 it was assigned to a specific department</p> <p>11 necessarily.</p> <p>12 Q. Do you recall how many members</p> <p>13 the committee had, approximately?</p> <p>14 A. I don't know.</p> <p>15 Q. Were there any executive members</p> <p>16 of Alpharma who were part of the committee?</p> <p>17 MS. MAHONEY: Objection.</p> <p>18 THE WITNESS: I believe so, but I</p> <p>19 don't remember.</p> <p>20 BY MR. MELAMED:</p> <p>21 Q. Is it that you remember certain</p> <p>22 individuals but don't remember whether they were</p> <p>23 executives at the time?</p> <p>24 A. This is something that is -- the</p>	<p style="text-align: right;">Page 46</p> <p>1 core values/basic principles is something that</p> <p>2 comes from the top down of the organization, and</p> <p>3 so it would only be likely that executives</p> <p>4 amongst our group would be part of this.</p> <p>5 Q. Okay. So you have no specific</p> <p>6 recollection?</p> <p>7 A. I don't have a specific</p> <p>8 recollection or a name.</p> <p>9 Q. After serving as senior sales</p> <p>10 associate at Alpharma, you became the marketing</p> <p>11 communications specialist from 2001 to 2002,</p> <p>12 correct?</p> <p>13 A. Yes.</p> <p>14 Q. Do you recall who you reported to</p> <p>15 in that position?</p> <p>16 A. Yes.</p> <p>17 Q. Who was that person?</p> <p>18 A. Nancy Buckingham.</p> <p>19 Q. Do you know where Nancy</p> <p>20 Buckingham currently works?</p> <p>21 MS. MAHONEY: Objection.</p> <p>22 THE WITNESS: No.</p> <p>23 BY MR. MELAMED:</p> <p>24 Q. Do you know if Nancy Buckingham's</p>
<p style="text-align: right;">Page 47</p> <p>1 last name ever changed due to marriage or</p> <p>2 divorce or anything like that?</p> <p>3 MS. MAHONEY: Objection.</p> <p>4 THE WITNESS: Yes.</p> <p>5 BY MR. MELAMED:</p> <p>6 Q. What did her last name become?</p> <p>7 A. Yes, I know. Her name did not</p> <p>8 change. Sorry.</p> <p>9 Q. That's an unclear question, so</p> <p>10 that was a clear answer. Thank you.</p> <p>11 Did you have anyone who reported</p> <p>12 to you in this position?</p> <p>13 A. No.</p> <p>14 Q. And your job as marketing</p> <p>15 communications specialist was to develop</p> <p>16 advertising and product launch communication</p> <p>17 campaigns for major products?</p> <p>18 A. That was one portion of my</p> <p>19 position, yes.</p> <p>20 Q. What types -- do you recall the</p> <p>21 major products or any of the major products that</p> <p>22 you helped develop advertising and product</p> <p>23 launch communications campaigns for?</p> <p>24 A. For the time period specified,</p>	<p style="text-align: right;">Page 48</p> <p>1 2001 to 2002?</p> <p>2 Q. Correct.</p> <p>3 A. I do not.</p> <p>4 Q. Would that have -- would your job</p> <p>5 have encompassed developing advertising and</p> <p>6 product launch communication campaigns for all</p> <p>7 major products at Alpharma during this time</p> <p>8 period?</p> <p>9 A. It could, but being a generic</p> <p>10 company, we don't do major advertising for all</p> <p>11 products.</p> <p>12 Q. You advertised for some of your</p> <p>13 generic products; is that correct?</p> <p>14 A. For some, when it made sense to</p> <p>15 do so, because of a market condition.</p> <p>16 Q. And you worked -- the next</p> <p>17 sentence says you "directed advertising agency</p> <p>18 through all phases of materials production,"</p> <p>19 correct?</p> <p>20 A. Yes.</p> <p>21 Q. So did you work with a single</p> <p>22 advertising agency during this time period?</p> <p>23 A. I do not believe so.</p> <p>24 Q. You were the primary contact at</p>

<p style="text-align: right;">Page 49</p> <p>1 Alpharma for the advertising agencies with whom</p> <p>2 you worked, correct?</p> <p>3 A. Yes.</p> <p>4 Q. And by "you" in that last phrase,</p> <p>5 I meant Alpharma.</p> <p>6 A. Yeah.</p> <p>7 Q. Okay. I want to go back to the</p> <p>8 end of the first sentence here. It says, you</p> <p>9 developed supporting marketing and sales</p> <p>10 management plans.</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. What are marketing plans, and</p> <p>14 what are sales management plans?</p> <p>15 MS. MAHONEY: Objection.</p> <p>16 THE WITNESS: Marketing and sales</p> <p>17 management plans would be -- an example</p> <p>18 would be looking at new product</p> <p>19 launches, determining if there was a</p> <p>20 reason that we should build awareness of</p> <p>21 the product's launch or availability.</p> <p>22 BY MR. MELAMED:</p> <p>23 Q. So the phrase here "marketing and</p> <p>24 sales management plans" refers to a single type</p>	<p style="text-align: right;">Page 50</p> <p>1 of plan; is that correct?</p> <p>2 A. Yes, it's not separate from</p> <p>3 marketing or sales management, marketing and</p> <p>4 sales.</p> <p>5 Q. And then after being a marketing</p> <p>6 communications specialist at Alpharma, you</p> <p>7 became the manager of products and</p> <p>8 communications from 2002 to 2010, correct?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Okay. And for part of that time</p> <p>11 you worked at Alpharma, and then you worked for</p> <p>12 another part of that time at Actavis; is that</p> <p>13 correct?</p> <p>14 A. Yes.</p> <p>15 Q. Do you recall why you worked for</p> <p>16 Alpharma for part and Actavis for part?</p> <p>17 A. Yes.</p> <p>18 Q. And what was the reason for that?</p> <p>19 A. Actavis purchased Alpharma</p> <p>20 generics division, USP, the US pharmaceutical</p> <p>21 division, as well as, I believe, other generic</p> <p>22 portions of Alpharma around the globe.</p> <p>23 Q. And subsequent to that purchase,</p> <p>24 you became employed by Actavis?</p>
<p style="text-align: right;">Page 51</p> <p>1 A. Yes.</p> <p>2 Q. Did your role as manager of</p> <p>3 products and communications change when you</p> <p>4 transitioned from working for Alpharma to</p> <p>5 working for Actavis?</p> <p>6 A. I don't think it changed in any</p> <p>7 major way.</p> <p>8 Q. Do you recall who you reported to</p> <p>9 as manager of products and communications</p> <p>10 between 2002 and 2010?</p> <p>11 A. It was a couple of people.</p> <p>12 Q. Can you tell me the couple people</p> <p>13 and the approximate time periods for each?</p> <p>14 A. At first I worked for Nancy</p> <p>15 Buckingham, and then I worked for Terry Fullem,</p> <p>16 I believe, then Joe Corsetti, and then Jinping</p> <p>17 McCormick. I believe that list to be complete</p> <p>18 but...</p> <p>19 Q. If you recall differently later,</p> <p>20 please come back and let me know that you can</p> <p>21 correct. I understand that you don't have a</p> <p>22 perfect recollection of --</p> <p>23 A. Certainly.</p> <p>24 Q. -- who you reported to 15, 20</p>	<p style="text-align: right;">Page 52</p> <p>1 years ago.</p> <p>2 Was this a promotion from being a</p> <p>3 marketing communications specialist?</p> <p>4 A. Yes, it was.</p> <p>5 MR. MELAMED: Apologies for those</p> <p>6 of you who are relying on the elmo.</p> <p>7 BY MR. MELAMED:</p> <p>8 Q. So during this time you managed</p> <p>9 the generic pharmaceutical product line at</p> <p>10 Alpharma and then at Actavis, correct?</p> <p>11 A. I managed a portion of the</p> <p>12 pharmaceutical line.</p> <p>13 Q. What was the portion you managed?</p> <p>14 A. I don't remember.</p> <p>15 Q. So "portion" meaning you managed</p> <p>16 certain generic pharmaceuticals and not other</p> <p>17 generic pharmaceuticals?</p> <p>18 A. Yes.</p> <p>19 Q. Do you recall any of the generic</p> <p>20 pharmaceuticals products that you managed?</p> <p>21 A. Yes.</p> <p>22 Q. Can you list those, if you can?</p> <p>23 A. It is a long list. I can clarify</p> <p>24 by at the beginning of this position, I managed</p>

1 all of the products -- prescription products
2 that came out of our Lincolnton, North Carolina
3 plant. It was mostly semi-solids and liquids,
4 creams, ointments, suppositories, things of that
5 nature.

6 Q. And that responsibility changed
7 over time; you managed different pharmaceutical
8 products over time?

9 A. Yes.

10 Q. Did that management ever include
11 generic opioids?

12 MS. MAHONEY: Objection.

13 THE WITNESS: I believe possibly
14 one or two.

15 BY MR. MELAMED:

16 Q. You don't recall specifically at
17 this point?

18 A. There is one that I believe I
19 managed.

20 Q. Which one is that?

21 A. Promethazine with codeine.

22 Q. The second sentence of the -- of
23 your job description states you "oversaw unit
24 demand forecasting, financial projection and

1 corporate communications"?

2 A. Yes.

3 Q. What was unit demand forecasting?

4 A. Looking at the run rate of
5 customer demand and anticipating the future
6 based on the past and any other changes that
7 were communicated by the customer. This would
8 drive production in our plants to meet customer
9 needs.

10 Q. In that -- withdraw that.

11 As part of that forecasting -- as
12 part of your forecasting, did you include market
13 data from other manufacturers?

14 A. No. Let me clarify. I did look
15 at trends based on IMS data for whether the
16 molecule was growing or declining, and I would
17 take that into account over the long period of
18 forecasting.

19 Q. What is IMS data?

20 A. IMS data is a third party service
21 that is commonly used in the pharmaceutical
22 industry, and it collects sales data of nearly
23 any pharmaceutical product.

24 Q. And so you would look at IMS data

1 for particular molecules that were the same
2 molecule as the generic pharmaceutical product
3 for which you were overseeing unit demand
4 forecasting?

5 MS. MAHONEY: Objection.

6 THE WITNESS: I could use IMS
7 data to review all of my assigned
8 products.

9 BY MR. MELAMED:

10 Q. What kind of data was available
11 through IMS?

12 A. I would see total market, how
13 many units were sold for the past several years.
14 I could see which company's product was sold, so
15 what percentage of that share they had.

16 I could see the overall decline
17 or growth of the demand for the molecule in the
18 market, the market being the United States.

19 And I could see the segment in
20 which the demand was driven, whether it be
21 retailers, wholesalers, hospitals, who was
22 needing this product.

23 Q. The geographic region this data
24 reflect was the United States; is that correct?

1 A. Yes.

2 Q. Were you able to be more specific
3 than the United States at large with this data?

4 MS. MAHONEY: Objection.

5 THE WITNESS: You mean regions?

6 BY MR. MELAMED:

7 Q. Could you look at a specific
8 United States region with the IMS data you had
9 access to?

10 A. The IMS data I had access to, no.

11 Q. Do you know if IMS provided
12 regional United States data?

13 MS. MAHONEY: Objection.

14 THE WITNESS: I don't know.

15 BY MR. MELAMED:

16 Q. So the smallest geographical unit
17 you were able to review was the United States?

18 A. Yes.

19 Q. And you don't know whether IMS
20 provided data on any smaller geographical
21 regions?

22 A. I believe that they do, but I
23 don't believe that they provided it to us.

24 Q. Is your belief that they would

1 have had the contract that Alpharma or Actavis
2 had at that point with IMS been at a different
3 level?

4 MS. MAHONEY: Objection.

5 THE WITNESS: I don't know what

6 the levels of subscription Alpharma

7 would have had or Actavis.

8 BY MR. MELAMED:

9 Q. I guess my -- I'm trying to ask
10 something I think simpler than my question came
11 out.

12 A. Okay.

13 Q. You believe that the data was
14 available on geographical bases smaller than the
15 United States, correct?

16 A. I believe, but my basis for that
17 belief is I am aware that in brand
18 pharmaceuticals, they do cut it down to regions
19 and specific regions, so I know that IMS as a
20 company does that, and I know that they do that
21 because of their work with brands.

22 We're a generic company. I never
23 had access to that, and I don't believe that we
24 bought that specific on a regular basis, not

1 that it wouldn't have been available to us had
2 we had a different subscription.

3 Q. You don't know either way whether
4 that level of detail was available for generics
5 through IMS?

6 A. I don't know.

7 Q. And how do you know that IMS
8 provided that level of detail? And that level
9 of detail being a smaller geographical
10 refinements for brand pharmaceuticals?

11 A. I know that they do because at
12 one point -- at one point, I had heard about
13 being able -- well, two ways I know this.

14 I have friends in the industry
15 that work in brands, and much of their bonuses
16 and salaries are based on, if they are in sales,
17 on their sales to their doctors. So this is
18 just my being in the industry and knowing
19 people.

20 Also, I am aware that my company
21 has at times had brand sales force, and I
22 believe that it's used in that regard. I don't
23 think it was at this time. I don't remember
24 us -- we didn't have much to do with brand, the

1 brands sales force. Brands were very divided.

2 Q. Meaning within Alpharma and
3 Actavis during this time period, the brand
4 operations were divi -- were separate --

5 A. Yes.

6 Q. -- from the generic operations?

7 MS. MAHONEY: Objection.

8 THE WITNESS: Yes.

9 BY MR. MELAMED:

10 Q. How do you know that?

11 A. I know that because I worked for
12 the company.

13 Q. That was -- I'm sorry, go ahead.

14 A. We rarely had anything,
15 interactions with the brand side from where I
16 sat.

17 Q. The job description also states
18 that you oversaw financial projection.

19 Do you see that?

20 A. Yes.

21 Q. Was that financial projection for
22 the generic pharmaceutical product lines for
23 which you had responsibility?

24 A. Yes.

1 Q. How did you do that financial
2 projection?

3 A. Financial projection was done
4 based on current unit run rate demand, monthly
5 demand, projecting out the future, what our
6 current average selling price was and projecting
7 a budget for the next year.

8 Q. Did that also consider trends
9 with the molecule from other manufacturers?

10 MS. MAHONEY: Objection.

11 THE WITNESS: From other
12 manufacturers?

13 BY MR. MELAMED:

14 Q. Yes.

15 A. No.

16 Q. And you mentioned that you also
17 had the responsibility for corporate
18 communications.

19 What do you mean by corporate
20 communications?

21 A. Essentially, all of the work that
22 was done in the marketing communications
23 specialist remained with me. I was still the
24 main contact for our agency or agencies of

<p style="text-align: right;">Page 61</p> <p>1 record, and I would interface with them and</p> <p>2 other product managers and marketing management</p> <p>3 to build corporate awareness programs and</p> <p>4 advertisements for specific products that were</p> <p>5 deemed worthy of having an advertising campaign.</p> <p>6 Q. After being a manager from 2002</p> <p>7 to 2010, you became a senior manager, products</p> <p>8 and communications from 2010 to present as of</p> <p>9 September 2012, correct?</p> <p>10 A. Yes.</p> <p>11 Q. That was a promotion, correct?</p> <p>12 A. Yes, sir.</p> <p>13 Q. At that point you -- it states</p> <p>14 "manage generic pharmaceutical product line</p> <p>15 representing \$140 million in annual revenues."</p> <p>16 Do you see that?</p> <p>17 A. I do.</p> <p>18 Q. Was that the entirety of Actavis'</p> <p>19 generic product -- pharmaceutical product line</p> <p>20 during that time period?</p> <p>21 A. No, far from it.</p> <p>22 Q. Further down in the paragraph</p> <p>23 there's a line that says, "conduct market</p> <p>24 research using IMS Health, Wolters Kluwer and</p>	<p style="text-align: right;">Page 62</p> <p>1 other data sources."</p> <p>2 Do you see that?</p> <p>3 MS. MAHONEY: Objection.</p> <p>4 THE WITNESS: Yes.</p> <p>5 BY MR. MELAMED:</p> <p>6 Q. IMS -- is IMS health the data</p> <p>7 source we were just discussing?</p> <p>8 A. Yes.</p> <p>9 Q. Did you use that any differently</p> <p>10 in your position as senior manager than you did</p> <p>11 as manager?</p> <p>12 A. No.</p> <p>13 Q. Was there any different data</p> <p>14 available to you when you were acting as senior</p> <p>15 manager than when you were acting as manager</p> <p>16 from IMS Health?</p> <p>17 A. No.</p> <p>18 Q. What is Wolters Kluwer?</p> <p>19 A. Wolters Kluwer is similar to IMS</p> <p>20 in that they measure sales of products. I don't</p> <p>21 know their full line of business, but at the</p> <p>22 time I know that we used them to tell us or give</p> <p>23 us metrics on prescription sales -- or</p> <p>24 prescriptions filled, I should say.</p>
<p style="text-align: right;">Page 63</p> <p>1 Q. Was the metric of prescriptions</p> <p>2 filled not available through IMS Health?</p> <p>3 A. I don't recall if they offered</p> <p>4 that at the time.</p> <p>5 Q. And can you describe what you</p> <p>6 mean by they gave us metrics on prescriptions</p> <p>7 filled?</p> <p>8 A. Similar to IMS, IMS would tell us</p> <p>9 the full market of sales, their data was based</p> <p>10 on sales out from wholesalers, distributors to</p> <p>11 pharmacies.</p> <p>12 Wolters Kluwer would tell us how</p> <p>13 many prescriptions were filled for the entire</p> <p>14 United States on every drug.</p> <p>15 Q. Was the Wolters Kluwer data able</p> <p>16 to be refined by a particular pharmacy?</p> <p>17 MS. ZOLNER: Object to the form.</p> <p>18 BY MR. MELAMED:</p> <p>19 Q. The prescriptions filled by a</p> <p>20 particular pharmacy?</p> <p>21 A. I don't know.</p> <p>22 Q. Did you -- you did not use it</p> <p>23 that way?</p> <p>24 A. No.</p>	<p style="text-align: right;">Page 64</p> <p>1 Q. Do you know if it was able to</p> <p>2 provide data on prescription filled by a</p> <p>3 pharmacy group? So my former question I was</p> <p>4 referring to the Duane Reed down the block. For</p> <p>5 this question I'm referring to Walgreens</p> <p>6 pharmacies nationwide.</p> <p>7 MS. MAHONEY: Objection.</p> <p>8 THE WITNESS: I don't know.</p> <p>9 BY MR. MELAMED:</p> <p>10 Q. Do you know if it was able to be</p> <p>11 filtered by geographical region within the</p> <p>12 United States?</p> <p>13 A. I don't know.</p> <p>14 Q. You did not use it in that way?</p> <p>15 A. I did not.</p> <p>16 Q. You mentioned other data sources</p> <p>17 at the end of that sentence on your resume?</p> <p>18 A. Yes.</p> <p>19 Q. What other data sources are you</p> <p>20 referring to there?</p> <p>21 A. I don't remember specifically.</p> <p>22 Q. You just remember that there were</p> <p>23 other data sources?</p> <p>24 A. Other data sources could be</p>

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1 internal data sources, our own sales, our own
 2 sale trends and analyzing those, doesn't
 3 necessarily mean an outside service that would
 4 mean anything in regards to my resume.
 5 Q. In the second bullet point, the
 6 end of it you write that you were awarded the
 7 2012 HDMA Diana Award for Best New Product
 8 Introduction (Generic).
 9 Do you see that?
 10 A. Yes.
 11 Q. What is the HDMA?
 12 A. I'm not sure exactly what the --
 13 I believe it's Healthcare Distributors
 14 Management Association was what that means.
 15 It's an organization.
 16 Q. Industry group?
 17 A. Industry organization, yes.
 18 Q. Do you know if Actavis was a
 19 member of that organization?
 20 A. Yes.
 21 Q. Do you know if you -- do you
 22 recall whether you were a member of that
 23 organization?
 24 A. Yes.

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1 A. No.
 2 Q. Do you recall interacting with
 3 any of the other members through the HDMA?
 4 MS. MAHONEY: Objection.
 5 THE WITNESS: No.
 6 BY MR. MELAMED:
 7 Q. Do you recall the identity of any
 8 of the other member companies of the HDMA?
 9 THE WITNESS: The other member
 10 companies could be everyone in the
 11 industry.
 12 BY MR. MELAMED:
 13 Q. Do you recall specifically
 14 whether Mallinckrodt was a member organization?
 15 A. I do not know.
 16 Q. Or Teva?
 17 MS. MAHONEY: Objection.
 18 THE WITNESS: I do not remember.
 19 BY MR. MELAMED:
 20 Q. Do you recall whether Purdue was
 21 a member?
 22 A. I do not, no.
 23 Q. Do you recall whether Endo was a
 24 member?

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1 Q. And were you?
 2 A. No.
 3 Q. Do you know who at Actavis was?
 4 A. No.
 5 Q. Do you know any of the other
 6 members of HDMA at that -- go ahead. If you
 7 want to clarify, please do.
 8 A. Let me clarify.
 9 The company was a member, but I
 10 believe there were people within the company
 11 that were on the roster, the contact list, and I
 12 do believe that I was one of them. I did not
 13 have a separate membership.
 14 Q. Do you recall approximately how
 15 many people at the company were on the roster
 16 list?
 17 A. I do not.
 18 Q. Do you -- there were other
 19 members of HDMA presumably as well, correct?
 20 MS. MAHONEY: Objection.
 21 THE WITNESS: Can you --
 22 BY MR. MELAMED:
 23 Q. Actavis wasn't HDMA's sole
 24 member?

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1 A. I do not.
 2 Q. Do you recall whether any
 3 specific company other than Actavis was a
 4 member?
 5 A. I do not know.
 6 Q. You know that there were other
 7 members, you just don't recall who they were?
 8 A. I can't concretely say that
 9 anyone was a member. I know that it's open to
 10 the entire pharmaceutical landscape, and I know
 11 that most companies -- I perceive that most
 12 companies at the time were part of this
 13 organization. I do not have any specific
 14 knowledge or cannot confirm concretely of their
 15 membership. I worried about our membership or I
 16 took care of our membership anyway.
 17 Q. What was the purpose, as best you
 18 understand, of the HDMA?
 19 MS. ZOLNER: Objection to form.
 20 THE WITNESS: From what I
 21 understand, the HDMA -- and it still
 22 exists as the HDA, I believe, is to --
 23 is a group of -- how do I state this?
 24 MS. MAHONEY: If you know.

1 THE WITNESS: I understand what
 2 their purpose for being is. I don't
 3 know that it's all encompassing. They
 4 are a group of businesses that are
 5 wholesalers and distributors, and they
 6 deal with issues that could relate to
 7 wholesaling and distributing of
 8 products.
 9 BY MR. MELAMED:
 10 Q. And that knowledge comes from
 11 your experience?
 12 A. I've never attended an HDMA
 13 meeting. I was a member and I was part of
 14 Actavis and Alpharma's membership in that I
 15 processed the payment for our membership. You
 16 pay dues to belong.
 17 Q. You stated what I understood to
 18 be a general understanding of what HDMA was, and
 19 you just said it was a group of businesses that
 20 are wholesalers and distributors, and they deal
 21 with issues that could relate to wholesaling and
 22 distributing of products, correct?
 23 A. Yes.
 24 Q. How did you come to that

1 understanding?
 2 A. I come to that understanding
 3 based on the type of work that they do. Based
 4 on that I submitted the paper for the Diana
 5 award, and the topic of that paper was how we
 6 int -- how we interacted with wholesalers and
 7 distributors and partnered with them in the
 8 launch of that product to make it smooth for
 9 their business processes, to make sure that
 10 product was adequately distributed but not
 11 overstocked. So that's how I come to that.
 12 Q. I know you said you did not
 13 personally attend any HDMA conferences, correct?
 14 A. Yes.
 15 Q. Do you know whether the HDMA held
 16 conferences?
 17 A. Yes.
 18 Q. Do you know approximately how
 19 often those conferences were held?
 20 MS. MAHONEY: Objection.
 21 THE WITNESS: I know that they
 22 may have -- we have attended some
 23 conferences, probably once a year, but
 24 we did not attend all of their

1 conferences.
 2 BY MR. MELAMED:
 3 Q. Is it your recollection that
 4 they -- HDMA during this time period, 2010 to
 5 2013 -- I'm sorry -- 2010 to 2012 held annual
 6 conferences?
 7 A. I believe -- I believe so.
 8 Q. Do you recall whether they held
 9 any other meetings between the annual -- in
 10 addition to the annual conferences during that
 11 time period?
 12 A. I believe so. I would get the
 13 schedule but our company didn't attend.
 14 Q. Do you know who from your company
 15 did attend the conferences from 2010 to 2012?
 16 A. It could change from year to
 17 year.
 18 Q. Do you know any of the people who
 19 did attend in any particular year?
 20 A. I couldn't be sure.
 21 Q. Where would that information be
 22 reflected? If I wanted to find that out, would
 23 there be a document that said it?
 24 MS. MAHONEY: Objection.

1 THE WITNESS: Probably a trade
 2 show -- probably a trade show schedule.
 3 BY MR. MELAMED:
 4 Q. And would Actavis have received
 5 that trade show schedule?
 6 A. The trade show schedule for
 7 certain years would be partially produced by me,
 8 so it's not something we would -- when I refer
 9 to a trade show schedule, I'm talking about the
 10 trade shows that our company is going to attend.
 11 Q. And you maintain -- you were the
 12 person responsible at Actavis for maintaining
 13 those schedules?
 14 A. I was one of the people.
 15 Q. Who else was responsible for
 16 that?
 17 A. There could be other people
 18 within marketing. There could be the marketing
 19 director that would have input to that.
 20 Q. When you kept those schedules,
 21 where did you keep them? Is there a specific
 22 directory you kept them in, shared files, et
 23 cetera?
 24 MS. MAHONEY: Objection.

1 THE WITNESS: I don't remember
 2 specifically, but they were kept online.
 3 BY MR. MELAMED:
 4 Q. Were they --
 5 A. On our network.
 6 Q. And did you update them on the
 7 network, or did you update them through a
 8 network site?
 9 A. Yes.
 10 MS. MAHONEY: Objection.
 11 BY MR. MELAMED:
 12 Q. Would you know what the name of
 13 that network system was at the time?
 14 A. I don't recall.
 15 Q. Did the HDMA -- let me -- I'd
 16 like to broaden the time period of these
 17 questions now, so I'd like to refer to both the
 18 HDMA and HDA; is that okay?
 19 A. That's fine.
 20 Q. And is it okay if I call it the
 21 HDA?
 22 A. Yes.
 23 Q. So does the HDA continue to hold
 24 conferences, to the best of your knowledge?

1 Q. Do you know whether it sponsored
 2 any articles?
 3 A. I don't remember that.
 4 Q. Do you know whether it sponsored
 5 any medical research?
 6 A. I don't recall that at all.
 7 Q. Do you know whether it lobbied,
 8 political -- engaged in political lobbying?
 9 MS. MAHONEY: Objection.
 10 THE WITNESS: I don't know.
 11 BY MR. MELAMED:
 12 Q. Do you know whether it made any
 13 campaign donations to politicians?
 14 A. I don't know.
 15 Q. Do you know whether Actavis was a
 16 member of any working groups at the HDA or HDMA?
 17 MS. MAHONEY: Objection.
 18 THE WITNESS: Could you define
 19 "working groups"?
 20 BY MR. MELAMED:
 21 Q. Sure. Was it a member of any
 22 subcommittees of the organization, if you know?
 23 MS. MAHONEY: Objection.
 24 THE WITNESS: I don't know.

1 A. I believe so.
 2 Q. And that belief is based on what?
 3 A. Assuming that their business
 4 would continue as usual and random e-mails I
 5 receive, marketing e-mails from them.
 6 Q. When did your responsibility for
 7 managing Actavis' membership in the HDA end?
 8 A. I believe it ended when Watson
 9 bought Actavis, and those type of memberships
 10 went -- moved to someone else. That
 11 responsibility came off my plate.
 12 Q. And that was approximately 2013;
 13 is that accurate? This isn't intended to be a
 14 test. I just want to have --
 15 A. I think about that time. There's
 16 been many mergers and acquisitions over the
 17 course of my tenure, and it's hard to remember
 18 what your last name is.
 19 Q. Did the HDA, in your experience,
 20 produce any periodicals?
 21 MS. MAHONEY: Objection.
 22 THE WITNESS: I don't remember
 23 that.
 24 BY MR. MELAMED:

1 BY MR. MELAMED:
 2 Q. Were there individuals most
 3 active in Actavis' membership in the HDA during
 4 the time period that you were responsible for
 5 paying the bills?
 6 MS. ZOLNER: Objection to form.
 7 THE WITNESS: I don't recall that
 8 anybody was very active in their
 9 membership with the HDA, other than
 10 attending the conference once a year.
 11 BY MR. MELAMED:
 12 Q. Do you recall whether opioids
 13 were discussed at HDA conferences?
 14 A. I wouldn't recall, because I had
 15 never been to a conference.
 16 Q. Do you recall anybody you work
 17 with speaking about opioids having been
 18 discussed in an HDA conference?
 19 A. No.
 20 Q. Returning to the award, you won
 21 what's called a Diana award.
 22 Do you know why it's called the
 23 Diana award?
 24 A. I do not.

<p style="text-align: right;">Page 77</p> <p>1 Q. And you won that for best new 2 product introduction (generic), correct? 3 A. Yes. 4 Q. And that was for the introduction 5 of oxymorphone, correct? 6 A. Yes, it was. 7 Q. What were the criteria for that 8 award, as best you understand? 9 A. To apply for the award -- to 10 apply for the award, you -- it has to be a 11 product awarded in that previous year -- or 12 launched in that previous year. 13 You have to write a paper that 14 includes many different criteria. Criteria 15 being -- and I don't -- may not recall all of 16 them, but it helps to show why the product is 17 unique or necessary for society and what you did 18 specifically and how you managed the business 19 differently in pertains to wholesalers, 20 distributors. Because they are a wholesaler, 21 distributor organization, how did you work with 22 them, what was different about this product 23 launch than any other product launch. 24 That paper, amongst all of the</p>	<p style="text-align: right;">Page 78</p> <p>1 other submissions, is then read by members of 2 the HDMA, and they vote on it, decide who wins 3 the award. 4 Q. In the final bullet point under 5 this section of your professional experience it 6 states, "Analyze markets of existing products 7 for growth opportunities and conduct analysis to 8 identify high potential new products," right? 9 A. Yes. 10 Q. What analysis did you do to 11 identify high potential new products? 12 A. Typically, once our R&D 13 organization and our pipeline organization had 14 gotten to within a year or two of projected 15 launch, they have forecasts -- forecasts that 16 they have created to start the project. It is 17 then co-authored with commercial, so someone 18 like me, to then look, take another look at the 19 market, the trends, is it growing, is it 20 declining, how many competitors do we feel -- do 21 we project there might be based on public 22 information, to determine what our market share 23 would be. That would then be used to drive 24 manufacturing to prepare for launch and also</p>
<p style="text-align: right;">Page 79</p> <p>1 could be used for financials, understanding how 2 many units we would sell at an estimated price 3 for whatever -- wherever the market lands. 4 Q. As a general matter, the idea -- 5 withdraw that. 6 As a general matter, the company 7 wanted to launch generic drugs that would be 8 profitable, correct? 9 MS. ZOLNER: Objection to form. 10 MS. MAHONEY: Objection. 11 THE WITNESS: Yes. 12 BY MR. MELAMED: 13 Q. It did not want to lose money 14 when it introduced a product, correct? 15 MS. ZOLNER: Objection to form. 16 THE WITNESS: Yes. That doesn't 17 mean that we didn't. 18 BY MR. MELAMED: 19 Q. Fair enough. 20 Are you aware of any product that 21 was introduced by Actavis or its successors for 22 whom you worked, so Watson or Teva when you were 23 transferred, that was launched and at the time 24 of launch the company anticipated it would lose</p>	<p style="text-align: right;">Page 80</p> <p>1 money? 2 MS. ZOLNER: Objection, form. 3 THE WITNESS: I don't recall a 4 specific product. I recall products 5 where at the end where we were about to 6 launch we decided not to because the 7 market had changed, and the value had 8 not been supportive of moving forward. 9 BY MR. MELAMED: 10 Q. In your experience, if that 11 determination had been made, that the market had 12 changed and the value wouldn't be supported 13 going forward, the company then decided not to 14 launch that generic product; is that correct? 15 MS. MAHONEY: Objection. 16 THE WITNESS: It would be 17 dependent on the particulars of that 18 specific product, not necessarily that 19 it wouldn't be profitable, but what are 20 all the other market factors that go 21 into it. 22 BY MR. MELAMED: 23 Q. Do you recall specifically any 24 pharmaceutical products for which that happened?</p>

1 And by that I mean that you got close to launch
2 and that it was withdrawn?

3 A. I don't recall any specific
4 products. I just know that it's happened.

5 Q. This resume takes us up to 2012.
6 Can you tell me what positions you've held since
7 being senior manager at Actavis?

8 A. Senior manager at Actavis for
9 products and communications then morphed into
10 just senior managers -- senior managers of
11 product operations. The communications portion,
12 as the company grew, went to a specific group of
13 marketing communications professionals that
14 dealt with that portion.

15 And since then I was promoted
16 once more to associate director of marketing.

17 Q. What was the name of the company
18 at the time you were promoted to associate
19 director of marketing?

20 A. Teva.

21 Q. When did that promotion happen,
22 approximately?

23 A. Within the last month.

24 Q. Congratulations.

1 A. Thank you.

2 Q. Do you remem -- you recall about
3 when you were promoted to senior manager of
4 product operations?

5 A. Well, it wasn't a promotion, it
6 was just a title change. The job just morphed
7 into something else. You know, different
8 companies will call you something different.
9 And, again, the communications portion came off,
10 so the communications portion came off of my
11 title.

12 Q. Did that happen in conjunction
13 with the Watson acquisition?

14 MS. MAHONEY: Objection.

15 THE WITNESS: It became more in
16 conjunction with Teva acquisition.

17 BY MR. MELAMED:

18 Q. So is it accurate to say you were
19 senior manager of products and communications up
20 until the Teva acquisition?

21 A. Yes.

22 Q. And at that point you became
23 senior manager of product operations at Teva,
24 right?

1 A. Yes, but at Watson, we -- when it
2 was Watson Actavis, because Watson bought
3 Actavis and then changed their name to Actavis,
4 so it's a little confusing.

5 Q. It is.

6 A. Watson did not believe in really
7 advertising generic pharmaceuticals. So
8 although random things would come up for me,
9 rarely did I get involved in communications,
10 even though the title didn't change, just so you
11 know.

12 Q. When you were senior manager of
13 products and communications at Actavis from,
14 let's say -- do you recall who you reported to
15 when you were in that position?

16 A. As senior manager?

17 Q. Yes.

18 A. I was promoted by Jinping
19 McCormick, and then when Watson bought Actavis,
20 Jinping did not go on with the company, and then
21 I reported to Napoleon Clark.

22 Q. Did you report to Jinping
23 McCormick prior to the Watson acquisition?

24 A. Yes.

1 Q. When did you start reporting to
2 Jinping McCormick?

3 A. I don't remember the specific
4 date.

5 Q. Is it -- was that -- did you
6 start reporting to Jinping McCormick in or
7 around 2010 when you were promoted to senior
8 manager?

9 A. Yes, she promoted me.

10 Q. Okay. Prior to being promoted to
11 senior manager, do you recall to whom you
12 reported in 2009 as the manager of products and
13 communications?

14 A. That may have been Jinping then
15 too. In 2009, I think so.

16 Q. Do you recall in 2008?

17 MS. MAHONEY: Objection.

18 THE WITNESS: I'm not exactly
19 sure. I don't know when Jinping became
20 director of marketing.

21 BY MR. MELAMED:

22 Q. Prior to Jinping McCormick
23 becoming -- let me withdraw that.

24 Upon Jinping McCormick becoming

1 director of marketing, did you report to her
 2 until the Watson acquisition?
 3 A. Can you repeat?
 4 Q. From the point at which Jinping
 5 McCormick was promoted to director of marketing,
 6 did you report to her up until the point of the
 7 Watson acquisition?
 8 A. Yes.
 9 Q. Do you remember immediately prior
 10 to Jinping McCormick becoming the director of
 11 marketing who you reported to?
 12 A. Yes.
 13 Q. And who was that?
 14 A. Joseph Corsetti.
 15 Q. Do you know where Joseph Corsetti
 16 is currently employed?
 17 MS. MAHONEY: Objection.
 18 THE WITNESS: No.
 19 BY MR. MELAMED:
 20 Q. And since you joined -- I'm
 21 sorry, let me withdraw that.
 22 You began reporting to Napoleon
 23 Clark after the Watson acquisition, correct?
 24 A. Yes.

1 understanding is Bryan Bart still reported to
 2 Napoleon Clark?
 3 A. Yes.
 4 Q. And in the last month, those
 5 reporting relationships are shifting?
 6 MS. ZOLNER: Objection to form.
 7 THE WITNESS: Yes, Bryan Bart is
 8 taking a different position within the
 9 company.
 10 BY MR. MELAMED:
 11 Q. Is it not clear who you will be
 12 reporting to at this point in time?
 13 A. Currently, I have a dotted line
 14 to Bryan Bart as he makes the transition, and I
 15 report to Napoleon Clark, and Bryan Bart's old
 16 position, senior director of marketing -- or
 17 senior director of product operations, I believe
 18 it may be, is open and is being recruited for.
 19 Q. Is it your understanding that
 20 once a person is hired for that position, you
 21 will report directly to that person?
 22 A. I believe that is the way that
 23 will go.
 24 MS. MAHONEY: I don't want to

1 Q. Have you continued to report to
 2 Napoleon Clark to present?
 3 A. Indirectly.
 4 Q. When did your direct reporting
 5 relationship to Napoleon Clark change?
 6 A. When Teva acquired Actavis.
 7 Q. And who did you begin to directly
 8 report to after the Teva acquisition?
 9 A. Bryan Bart.
 10 Q. And then does Bryan Bart report
 11 to Napoleon Clark?
 12 A. Yes.
 13 Q. And is that the reporting
 14 relationship that remains today?
 15 MS. ZOLNER: Objection, form.
 16 BY MR. MELAMED:
 17 Q. Is that your -- do you still
 18 report to Bryan Bart? As on a -- let me
 19 withdraw that.
 20 A. Okay.
 21 Q. Up until a month ago, did you
 22 report to Bryan Bart?
 23 A. Yes.
 24 Q. And up until a month ago, your

1 interrupt you, but we've been going for
 2 a while, if now is a good time for a
 3 break.
 4 MR. MELAMED: If it's okay with
 5 you -- with everybody in the room, if we
 6 do one more document, pretty quick set
 7 of documents. Is that okay?
 8 THE WITNESS: I'm okay.
 9 MS. MAHONEY: Is that good with
 10 you?
 11 THE WITNESS: Okay.
 12 MR. MELAMED: Then we'll take a
 13 break.
 14 MS. MAHONEY: Thank you.
 15 (Document marked for
 16 identification as Myers Deposition
 17 Exhibit No. 4.)
 18 BY MR. MELAMED:
 19 Q. Handing you what's been marked as
 20 Exhibit 4. Exhibit 4 is a spreadsheet, several
 21 pages printed, it's all at the same Bates number
 22 which is Acquired_Actavis_00661681. And the
 23 title of the document has been recorded on the
 24 bottom of the printed spreadsheet which is

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1 "Special Recognition Recipients."
 2 Do you recognize this document?
 3 A. No.
 4 Q. Okay. I just want to draw your
 5 attention to page 2, and the page numbers on
 6 this is in the center of the bottom of the page,
 7 still the same Bates number, 1681.
 8 And the top line it says in 2011
 9 in the month of August, there's a column for
 10 Recipient #2 and you are listed.
 11 Do you see your name under
 12 Recipient #2?
 13 A. I do.
 14 Q. And you see that there's an award
 15 summary, and it refers to you and others. It
 16 says, "For their effort in support of NACDS"?
 17 A. Yes.
 18 Q. And NACDS stands for National
 19 Association of Chain Drug Stores, correct?
 20 A. Yes.
 21 Q. Can you explain this -- do you
 22 recall why you received this award?
 23 MS. MAHONEY: Objection.
 24 THE WITNESS: Yes.

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1 MS. MAHONEY: Objection.
 2 THE WITNESS: I don't know what
 3 their mission statement is, but I assume
 4 that they are same thing to -- an
 5 organization to deal with, you know,
 6 business things that might impact
 7 national chain drug stores.
 8 BY MR. MELAMED:
 9 Q. Do you have an understanding of
 10 why Actavis was a member of -- and I'll refer to
 11 it as the document does, as the NACDS, is that
 12 okay? Do you have any understanding of why
 13 Actavis was a member of the NACDS?
 14 MS. MAHONEY: Objection.
 15 THE WITNESS: Not specifically to
 16 NACDS, but we supported the industry.
 17 It was customary for all drug companies
 18 to support their customers.
 19 BY MR. MELAMED:
 20 Q. And so the NACDS was made up, at
 21 least in part of -- let me withdraw that.
 22 The membership of NACDS was made
 23 up, at least in part, of Actavis' customers,
 24 correct?

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1 BY MR. MELAMED:
 2 Q. You do recall receiving the
 3 award, correct?
 4 A. Not specifically.
 5 Q. Do you understand the reason this
 6 -- that you received this award?
 7 A. Based on the summary, yes, I
 8 would understand.
 9 Q. Okay. And what is your
 10 understanding of the reason you received this
 11 award?
 12 A. Once a year we would -- National
 13 Association of Chain Drug Stores is another
 14 national organization that the company
 15 participated and belonged to, and we would go to
 16 a -- they call it a trade show, but it's really
 17 a meeting driven trade show, where participants,
 18 like, for instance, Actavis or Teva would have a
 19 trade show booth and you would have appointments
 20 with most of your largest customers just to
 21 review business.
 22 Q. More generally, do you understand
 23 the reason for the National Association of Chain
 24 Drug Stores existence?

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1 MS. MAHONEY: Objection.
 2 THE WITNESS: I believe so.
 3 BY MR. MELAMED:
 4 Q. And those customers were the --
 5 were some of the pharmacies who filled
 6 prescriptions using Actavis products?
 7 A. Were they members?
 8 Q. Yes.
 9 MS. MAHONEY: Objection.
 10 THE WITNESS: I have no
 11 knowledge.
 12 BY MR. MELAMED:
 13 Q. Okay. Do you know if there were
 14 any pharmaceutical distributors who were members
 15 of the NACDS?
 16 A. I don't know.
 17 Q. Do you know whether there were
 18 any other pharmaceutical manufacturers who were
 19 members of the NACDS?
 20 A. I believe so.
 21 Q. Do you have any specific
 22 knowledge as to any other manufacturers who were
 23 members of the NACDS?
 24 A. Yes.

1 Q. About how many do you recall off
2 the top of your head?

3 A. I don't have a list of their
4 members. I am aware that both Actavis and Teva
5 had been members of the NACDS.

6 Q. Is Teva still a member of the
7 NACDS?

8 A. I don't know.

9 Q. Do you know if the NACDS still
10 exists?

11 A. Yes, it does.

12 Q. And you said that the NACDS held
13 annual trade shows, but you referred to those as
14 meeting based?

15 A. Yes.

16 Q. What do you mean by "meeting
17 based"?

18 A. The difference between what I
19 would consider, from my personal experience, a
20 trade show is a trade show you show up, people
21 can ask you questions about your products and
22 your company.

23 With a meeting trade show, such
24 as one of the NACDS' -- the NACDS has many trade

1 shows. The one in this particular regard,
2 essentially you have meeting -- you have a booth
3 that has meeting rooms, and your business
4 partners make appointments with you to discuss
5 business.

6 Q. Do you know if the NACDS
7 published any periodicals, any pamphlets,
8 magazines?

9 MS. MAHONEY: Objection.

10 THE WITNESS: I don't know.

11 BY MR. MELAMED:

12 Q. Do you know whether they
13 sponsored any medical studies?

14 MS. MAHONEY: Objection.

15 THE WITNESS: I don't know.

16 BY MR. MELAMED:

17 Q. Do you know whether the NACDS
18 engages in any political lobbying? Apologies
19 for tripping over my tongue.

20 A. I don't know.

21 Q. Do you know whether the NACDS
22 provides political candidates any campaign
23 donations?

24 A. I don't know.

1 Q. Do you know who was responsible
2 at Actavis -- withdraw that.

3 Who was primarily responsible at
4 Actavis for the relationship -- let me withdraw
5 that and start again.

6 Do you know who was primarily
7 responsible at Actavis for managing Actavis'
8 membership in the NACDS?

9 MS. MAHONEY: Objection.

10 THE WITNESS: Can you define
11 "managing"?

12 BY MR. MELAMED:

13 Q. Who is the primary point person
14 between Actavis and the NACDS?

15 MS. ZOLNER: Objection to form.

16 MS. MAHONEY: Objection.

17 THE WITNESS: I know there were
18 some years for which I paid our
19 membership dues, not me personally, but
20 I submitted payment to pay our dues to
21 belong to the thing. I don't know who
22 was the main contact outside of that.
23 There were many people that could have
24 been.

1 BY MR. MELAMED:

2 Q. Did you attend any of the NACDS
3 meetings?

4 A. Yes.

5 Q. You attended the one for which
6 you received this award, correct? And by "this
7 award" I'm referring to the award on Exhibit 4
8 that we're looking at?

9 A. I don't remember if I attended
10 this one or not.

11 Q. Approximately how many NACDS
12 meetings have you attended in your career to
13 present?

14 A. Four or five, I think.

15 Q. And have you engaged in any other
16 communications -- withdraw that.

17 Have you ever participated in any
18 committees of the NACDS?

19 A. No.

20 Q. Do you know if anybody at Actavis
21 has or did?

22 A. No.

23 Q. Do you know if anybody at Teva
24 currently does?

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1 A. No.
 2 Q. Do you know if anybody at Teva
 3 formerly did?
 4 A. No.
 5 MR. MELAMED: All right. Let's
 6 go off the record.
 7 THE VIDEOGRAPHER: The time is
 8 10:42 a.m. We're going off the record.
 9 (Brief recess.)
 10 THE VIDEOGRAPHER: The time is
 11 10:57 a.m., and we're back on the
 12 record.
 13 BY MR. MELAMED:
 14 Q. Before we took a break, we were
 15 talking about two industry groups, the NACDS and
 16 HDA, correct?
 17 A. Yes.
 18 Q. For the NACDS you mentioned that
 19 there were annual meetings, right?
 20 A. Yes.
 21 Q. You called them trade shows, but
 22 they were actually more organized to facilitate
 23 meetings?
 24 MS. MAHONEY: Objection.

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1 pharmaceutical products?
 2 A. Yes.
 3 Q. Do you recall specifically with
 4 whom any of those meetings occurred?
 5 A. Not specifically. It could be
 6 with any of our customers.
 7 Q. So you can't -- well, I'll ask
 8 you a few specific ones, and if that triggers
 9 your recollection great, and if not, fair
 10 enough.
 11 Do you know whether Actavis met
 12 at the NACDS with Cardinal Health?
 13 A. I don't recall.
 14 Q. It's possible, but you don't
 15 recall either way?
 16 A. Yes.
 17 MS. MAHONEY: Objection.
 18 THE WITNESS: Yes.
 19 BY MR. MELAMED:
 20 Q. Okay. Do you recall whether at
 21 the NACDS whether Actavis met with McKesson?
 22 A. It's possible, but I don't
 23 recall.
 24 Q. Do you recall at the NACDS

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1 THE WITNESS: The meeting in
 2 question was that way.
 3 BY MR. MELAMED:
 4 Q. The meeting -- and you're
 5 referring to the meeting in question in Exhibit
 6 4?
 7 A. Yes.
 8 Q. Do you know whether other NACDS
 9 trade shows were similarly meeting based?
 10 MS. ZOLNER: Objection to the
 11 form.
 12 MS. MAHONEY: Objection.
 13 THE WITNESS: I don't know.
 14 BY MR. MELAMED:
 15 Q. Do you recall any meetings that
 16 occurred during the NACDS that concerned
 17 opioids?
 18 A. No.
 19 Q. At the NACDS were any of the
 20 meetings between Actavis and another drug
 21 manufacturer?
 22 A. Not that I recall.
 23 Q. Were there any meetings at the
 24 NACDS between Actavis and distributors of

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1 whether Actavis met with AmerisourceBergen?
 2 A. Again, it's possible, but I don't
 3 recall specifically.
 4 Q. Do you recall at the NACDS
 5 whether Actavis met with Walgreens?
 6 A. Yes.
 7 Q. And is your recollection that
 8 Actavis did meet with Walgreens?
 9 A. I believe so.
 10 Q. Were you at that meeting?
 11 A. No.
 12 Q. Do you know who was at that
 13 meeting?
 14 A. No.
 15 Q. How do you recall that Actavis
 16 met with Walgreens at the NACDS?
 17 A. Walgreens is one of our largest
 18 chain drug store companies or customers. This
 19 is a chain drug store meeting.
 20 Q. Do you know who from Actavis
 21 would have participated in that meeting?
 22 MS. MAHONEY: Objection.
 23 THE WITNESS: Not specifically.
 24 BY MR. MELAMED:

1 Q. Do you have any idea who it was
2 most likely to be that participated in that
3 meeting from Actavis?
4 MS. MAHONEY: Objection.
5 THE WITNESS: Yes.
6 BY MR. MELAMED:
7 Q. Who was it -- who was it most
8 likely to be?
9 MS. ZOLNER: Objection to form.
10 THE WITNESS: Most likely, it
11 would be the salesperson who represented
12 or who was assigned to Walgreens. It
13 could be other members of our
14 management. It could be the vice
15 president of sales. It could be other
16 people in the commercial team.
17 BY MR. MELAMED:
18 Q. Do you recall who the vice
19 president of sales at Actavis was at the time
20 you attend -- you received your award for your
21 effort in support of NACDS?
22 A. I believe it was Michael
23 Perfetto.
24 Q. And at the NACDS did you meet

1 with -- do you recall whether Actavis met with
2 Publix?
3 A. I do not.
4 Q. Do you recall at the NACDS
5 whether Actavis met with Rite Aid?
6 A. It's possible, but I don't
7 recall.
8 Q. Do you recall at the NACDS
9 whether Actavis met with Walmart?
10 A. It's possible, but I don't
11 recall.
12 Q. Do you recall at the NACDS
13 whether Actavis met with Target?
14 A. It's possible, but I don't recall
15 specifically.
16 Q. Do you recall at the NACDS
17 whether Actavis met with Kroger?
18 A. It's quite possible, but I don't
19 recall.
20 Q. Is there a reason you said quite
21 possible for Kroger, but only possible for the
22 others?
23 A. Just a difference in statement.
24 It's quite possible that we met with any or all

1 of those. I don't have specific recollection.
2 Q. Was Anda also a distributor of
3 Actavis Pharmaceuticals when you were at
4 Actavis?
5 A. Yes.
6 Q. Was Anda a part of the -- let me
7 withdraw that.
8 Was Anda also owned by Actavis,
9 if you know?
10 A. Define Actavis.
11 Q. Why don't you explain the reason
12 for your hesitation and describe the
13 relationships.
14 MS. MAHONEY: Objection.
15 THE WITNESS: The name Actavis
16 has lived on in a couple different
17 corporate cultures. Actavis was once a
18 company owned by Actavis Iceland that
19 bought Alpharma. Watson then bought
20 Actavis, and Watson changed its name to
21 Actavis. At the time that Actavis was
22 an entity prior to their being bought by
23 Watson, we did not own Anda. Watson
24 owned Anda.

1 BY MR. MELAMED:
2 Q. And so Anda became part of the
3 Actavis company once Watson acquired Actavis and
4 renamed the combined company Actavis?
5 A. Yes.
6 Q. And Anda remained part of Actavis
7 and its successors until Anda was sold to Teva;
8 is that correct?
9 MS. MAHONEY: Objection.
10 THE WITNESS: No.
11 BY MR. MELAMED:
12 Q. Was Anda sold at any point by
13 post merger Actavis and its successors?
14 MS. ZOLNER: Objection,
15 foundation.
16 MS. MAHONEY: Objection.
17 THE WITNESS: Could you repeat
18 the question.
19 BY MR. MELAMED:
20 Q. Sure. Do you know -- do you know
21 if another company owns -- do you know if any
22 company owns Anda at this point?
23 A. Yes.
24 Q. Do you know who owns Anda?

1 MS. MAHONEY: Objection.
2 THE WITNESS: Teva.
3 BY MR. MELAMED:
4 Q. Do you know when Teva acquired
5 Anda?
6 A. Sometime after Teva acquiring
7 Actavis.
8 Q. Do you know prior to Anda's
9 acquisition of the Actavis generic portfolio
10 whether Anda was owned by Actavis?
11 MS. MAHONEY: Objection.
12 BY MR. MELAMED:
13 Q. Who owned Actavis -- let me
14 restate the question.
15 Who owned Anda prior to Teva's
16 acquisition of Anda?
17 A. I believe it was part of
18 Allergan.
19 Q. At the HDA conferences, are you
20 aware whether Actavis met with any other drug
21 manufacturers?
22 A. No.
23 Q. You're not aware?
24 A. I'm not aware.

1 is that correct?
2 MS. MAHONEY: Objection.
3 THE WITNESS: I wasn't there.
4 BY MR. MELAMED:
5 Q. Is it correct you didn't hear
6 anything subsequently --
7 A. No.
8 Q. -- that indicated that they had
9 or had not met with them?
10 MS. MAHONEY: Objection.
11 THE WITNESS: No. Thank you.
12 MS. MAHONEY: Since I'm not
13 allowed to interrupt him, I can't object
14 before you start answering. So when you
15 interrupt him, I don't have anything to
16 do.
17 THE WITNESS: Okay. And we want
18 to give you plenty to do.
19 (Document marked for
20 identification as Myers Deposition
21 Exhibit No. 5.)
22 BY MR. MELAMED:
23 Q. I'm handing you what's been
24 marked Exhibit 5.

1 MS. MAHONEY: Objection.
2 BY MR. MELAMED:
3 Q. Thank you. I just wanted
4 clarification whether you were saying they
5 didn't or you were not aware. Thank you.
6 Do you know whether Actavis met
7 with any drug distributors at the HDA?
8 MS. ZOLNER: Objection, form.
9 THE WITNESS: At what meeting?
10 BY MR. MELAMED:
11 Q. At any HDA meeting.
12 A. I'm sorry. Restate the question
13 for me, please.
14 Q. Sure. So Actavis attended some
15 HDA meetings, correct?
16 A. Yes.
17 Q. Do you know during its attendance
18 at any of those meetings whether it, Actavis,
19 met with any of its drug distributor clients?
20 MS. ZOLNER: Objection, form.
21 THE WITNESS: I don't know.
22 BY MR. MELAMED:
23 Q. It's possible? I just want to
24 understand whether -- you don't know either way;

1 A. Thank you.
2 Q. Exhibit 5 is an e-mail string,
3 the last in time being from David Myers to
4 Nathalie Leitch on June 16, 2009. The Bates
5 range of the e-mail exchange -- e-mail string is
6 ALLERGAN_MDA_01192443 through 444.
7 Do you recognize this e-mail
8 string?
9 A. No.
10 Q. Do you have any reason to doubt
11 that the e-mail at the top of the string is from
12 you?
13 A. No, I see that it is from me.
14 Q. And it concerned the subject
15 matter of your employment at Actavis, correct?
16 MS. MAHONEY: Objection.
17 THE WITNESS: I'm not sure I
18 understand the question.
19 BY MR. MELAMED:
20 Q. This wasn't a personal e-mail to
21 Nathalie Leitch, correct?
22 A. No.
23 Q. It had to do with work?
24 A. Yes.

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1 Q. How do you properly pronounce
2 Ms. Leitch's first name?
3 A. Nathalie.
4 Q. Nathalie.
5 A. With the T-H is -- yes. She's
6 Canadian, it's unusual, Nathalie.
7 Q. Do you see the e-mail from
8 Kristine Fidler that starts at the bottom of the
9 first page and continues on to the second that's
10 subject line "Kadian - New Option For
11 Marketing"?
12 A. Let me read it for a second.
13 (Witness reviews document.)
14 Yes.
15 Q. Okay. Do you recall reviewing
16 this e-mail?
17 A. I don't recall reviewing it.
18 Q. Kadian was a brand name opioid at
19 this point in time, correct?
20 A. Yes.
21 Q. And Ms. Fidler, according to the
22 e-mail, worked at Cardinal Health.
23 Do you see that?
24 A. Yes.

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1 Q. Do you have any reason to doubt
2 that she worked at Cardinal Health at that time?
3 A. No.
4 Q. Now, she writes to Denise, and
5 this is the e-mail that's eventually forwarded
6 on to you, it says "I wanted to provide you with
7 this option to consider for your product Kadian.
8 We have a publication called RxNotes which is a
9 16-20 page publication that is received by over
10 7,000 retail chain and independent pharmacies
11 (Cardinal customers)."
12 It talks it's a quarterly
13 publication. "The next publication includes
14 pain awareness as a topic of interest." Then it
15 continues and says, "As Kadian is a pain
16 management product I thought this would be a
17 good opportunity to place an ad in this
18 publication for product awareness. A full page
19 ad is 2 DSP points - you have a total of 5 DSP
20 points to use this year."
21 Do you know whether Actavis
22 placed the ad that is being discussed in this
23 e-mail?
24 A. I do not.

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1 Q. Do you know whether Actavis ever
2 placed ads through RxNotes?
3 A. I don't know.
4 Q. Do you know what DSP points are,
5 as she references those in the e-mail?
6 A. I'm not sure.
7 Q. Who would be the best person to
8 ask those questions to which you just answered
9 you don't know?
10 MS. ZOLNER: Objection, calls for
11 speculation.
12 MS. MAHONEY: Objection.
13 THE WITNESS: I don't know.
14 BY MR. MELAMED:
15 Q. Was there a person who
16 customarily at Actavis around this point in time
17 dealt with Cardinal Health concerning ads?
18 MS. ZOLNER: Objection.
19 BY MR. MELAMED:
20 Q. Offers of ads?
21 MS. MAHONEY: Objection.
22 MS. ZOLNER: Objection,
23 foundation.
24 THE WITNESS: From Cardinal

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1 Health, I do not know who specifically
2 would have received these.
3 BY MR. MELAMED:
4 Q. Do you recall other offers from
5 Cardinal Health to Actavis to promote Kadian?
6 MS. MAHONEY: Objection.
7 MS. ZOLNER: Objection,
8 foundation.
9 THE WITNESS: No.
10 BY MR. MELAMED:
11 Q. Do you recall other offers from
12 Cardinal Health to Actavis to assist in the
13 promotion of any of Actavis' drugs?
14 MS. MAHONEY: Objection.
15 MS. ZOLNER: Objection,
16 foundation.
17 THE WITNESS: Not specifically
18 from Cardinal.
19 BY MR. MELAMED:
20 Q. Do you recall distributors making
21 offers to promote Actavis drugs?
22 A. None specifically.
23 Q. So you don't recall whether
24 McKesson provided offers to place advertisements

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1 in its materials distributed to pharmacies?
 2 MS. MAHONEY: Objection.
 3 THE WITNESS: It's possible that
 4 they did, but I don't remember specific
 5 instances.
 6 BY MR. MELAMED:
 7 Q. Do you recall who -- do you have
 8 any idea who would be the best person to ask
 9 that question, if not yourself?
 10 A. Me.
 11 Q. And you don't recall?
 12 A. I don't recall. It was a long
 13 time ago.
 14 Q. Okay. Do you recall whether
 15 AmerisourceBergen made similar offers of placing
 16 advertisements for Actavis Pharmaceutical
 17 products in its communications to its customers?
 18 MS. MAHONEY: Objection.
 19 THE WITNESS: It's possible, but
 20 I don't recall.
 21 BY MR. MELAMED:
 22 Q. And would you have been the best
 23 person to -- are you the best person to ask that
 24 question?

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1 Q. Who was the primary person for
 2 Kadian during that time period?
 3 MS. ZOLNER: Objection,
 4 foundation.
 5 MS. MAHONEY: Objection.
 6 THE WITNESS: I don't know.
 7 BY MR. MELAMED:
 8 Q. Was it in a different --
 9 different department at Actavis? Was Kadian
 10 promoted by a different department at Actavis?
 11 MS. ZOLNER: Objection,
 12 foundation.
 13 MS. MAHONEY: Objection.
 14 THE WITNESS: Kadian was a brand,
 15 and, as I previously stated, brands
 16 operated separately, almost like a
 17 separate business unit from generics, so
 18 I would have very little to do with
 19 advertising Kadian.
 20 BY MR. MELAMED:
 21 Q. Which unit would have been
 22 primarily involved in discussions concerning the
 23 advertising of Kadian?
 24 MS. ZOLNER: Objection,

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1 A. At the time in question, yes.
 2 Q. And the time in question here is
 3 June 2009.
 4 Do you see that?
 5 A. Yeah. Yes.
 6 Q. Is there a time in question where
 7 you would no longer be the best person to ask
 8 those questions?
 9 MS. MAHONEY: Objection.
 10 THE WITNESS: At some point
 11 during the Watson ownership of Actavis
 12 through the Teva, I had nothing to do
 13 with advertising.
 14 BY MR. MELAMED:
 15 Q. Okay. Is it fair to say that
 16 from at least June 2009 through the Watson
 17 acquisition, you were the primary person at
 18 Actavis concerning advertising?
 19 MS. ZOLNER: Objection to form.
 20 MS. MAHONEY: Objection.
 21 THE WITNESS: I was for generics.
 22 BY MR. MELAMED:
 23 Q. What about for Kadian?
 24 A. No.

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1 foundation.
 2 MS. MAHONEY: Objection.
 3 THE WITNESS: I believe brand
 4 management.
 5 BY MR. MELAMED:
 6 Q. Do you know who headed that unit
 7 in 2009?
 8 A. I'm sorry, I do not.
 9 Q. Do you know at any point in time
 10 who was in charge of that unit?
 11 A. No, I don't.
 12 (Document marked for
 13 identification as Myers Deposition
 14 Exhibit No. 6.)
 15 BY MR. MELAMED:
 16 Q. I'm handing you what's been
 17 marked Exhibit 6. Exhibit 6 is an e-mail
 18 string, most recent in time being from David
 19 Myers to Jinping McCormick, Michael Perfetto and
 20 Gerard Farrell on March 17th, 2010. Bates range
 21 of the document is ALLERGAN_MDL_02463212 through
 22 215.
 23 Do you recognize this e-mail?
 24 A. No.

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1 Q. Do you have any reason to doubt
2 you wrote it?
3 A. No.
4 Q. At the top, and by "it" I mean
5 the top one in the string.
6 A. No, I see that it is from me.
7 Q. And this wasn't a personal
8 e-mail, was it?
9 MS. MAHONEY: Objection.
10 THE WITNESS: No.
11 BY MR. MELAMED:
12 Q. This concerned your -- this
13 related to your employment at Actavis, your job
14 duties, correct?
15 A. Yes.
16 Q. And your brief e-mail concerns a
17 warning letter for Kadian, which has appeared on
18 the FDA's e-mail announcement, correct?
19 A. Yes.
20 Q. Do you recall the warning letter
21 for Kadian?
22 A. No.
23 Q. Do you recall any discussions
24 about the contents of the warning letter for

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1 Kadian?
2 A. No, sir.
3 Q. Do you recall why you forwarded
4 the warning letter for Kadian as it appeared on
5 the FDA's e-mails announcement?
6 A. Because I noticed it, as this is
7 an e-mail announcement that goes out to the
8 industry, I noticed something that referred --
9 that impacted our company or that referred to
10 our company, so I passed it on so that it could
11 be forwarded to whomever the appropriate person
12 was.
13 (Document marked for
14 identification as Myers Deposition
15 Exhibit No. 7.)
16 BY MR. MELAMED:
17 Q. I'm going to hand you another
18 document that's been previously marked in
19 another deposition -- it's been marked as -- it
20 has been previously marked, but it is not here,
21 so I'm going to remark it.
22 MS. MAHONEY: I don't know how
23 we're doing that anyway, so I think it's
24 easier to remark it.

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1 MR. MELAMED: Fair enough.
2 BY MR. MELAMED:
3 Q. It's been marked as Exhibit 7.
4 Exhibit 7 is a letter from the Department of
5 Health & Human Services, says transmitted by
6 facsimile to Doug Boothe, chief executive
7 officer of Actavis, and it's titled Warning
8 Letter. It starts at ACTAVIS0799203 and it
9 continues to 0799214.
10 Have you seen this warning letter
11 before?
12 A. I don't believe so.
13 Q. Do you recall whether this is the
14 warning letter to which the prior exhibit, your
15 e-mail in the prior exhibit, which was Exhibit
16 Number 6, referred?
17 A. I don't know.
18 Q. Okay. Do you have any
19 familiarity with the content of the warning
20 letter?
21 A. No.
22 Q. Do you recall it being discussed
23 with you when you were at Actavis?
24 A. No.

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1 Q. Do you recall discussions by
2 anybody else at Actavis about this letter?
3 A. Not specific discussions.
4 Q. Do you recall that it was
5 discussed at Actavis?
6 A. I was aware that it existed. I'm
7 not privy to any discussions.
8 Q. Okay. You can put that aside.
9 (Document marked for
10 identification as Myers Deposition
11 Exhibit No. 8.)
12 BY MR. MELAMED:
13 Q. I'm handing you what's been
14 marked as Exhibit 8. Exhibit 8 starts with an
15 e-mail, most recent in time being from David
16 Myers to Elisabet Hjaltadottir dated
17 December 14th, 2009, subject, Actavis brand
18 project update. It starts at Bates number
19 ALLERGAN_MDL_1234649 and then includes an
20 attachment that starts at ALLERGAN_MDL_1234652
21 and concludes on 661.
22 Do you recognize this document?
23 A. No.
24 Q. Do you have any reason to doubt

1 that you sent the e-mail to -- and I'm going to
 2 refer to her by her first name -- to Elisabet --
 3 A. Yes.
 4 Q. -- on this -- on December 4th --
 5 14th, 2009?
 6 A. No, I believe I did.
 7 Q. And this was not a personal
 8 e-mail, correct?
 9 A. No.
 10 Q. It was something that concerned
 11 your employed at Act -- your job duties at
 12 Actavis, correct?
 13 MS. MAHONEY: Objection.
 14 THE WITNESS: Yes.
 15 BY MR. MELAMED:
 16 Q. And you mention in your e-mail to
 17 Elisabet that you've attached a booklet that our
 18 Kadian sales team uses to promote Kadian to
 19 doctors.
 20 Do you see that?
 21 A. Can I read that?
 22 Q. Yes, of course.
 23 A. (Witness reviews document.)
 24 Q. So you see at the beginning of

1 the e-mail, you write to Elizabeth, you say, "I
 2 have attached a booklet that our Kadian sales
 3 team uses to promote Kadian to doctors,"
 4 correct?
 5 A. Yes.
 6 Q. And that's the attachment that
 7 starts at the Bates number ending 4652, correct?
 8 A. I believe so.
 9 Q. You have no reason to doubt?
 10 A. I have no reason to doubt.
 11 Q. Okay. Do you know when the date
 12 range that the Kadian sales team used this
 13 booklet to promote Kadian to doctors?
 14 MS. MAHONEY: Objection.
 15 THE WITNESS: No, I don't. No, I
 16 don't.
 17 BY MR. MELAMED:
 18 Q. Do you know if the sales team
 19 ceased using this booklet to promote Kadian to
 20 doctors at any point after the date you sent
 21 this e-mail?
 22 MS. MAHONEY: Objection.
 23 THE WITNESS: No, I don't.
 24 BY MR. MELAMED:

1 Q. Do you know who were the members
 2 of the Kadian sales team that used this booklet?
 3 A. I don't know.
 4 Q. Do you know organizationally
 5 where in the organization, what group those
 6 individuals worked in?
 7 MS. ZOLNER: Objection, form.
 8 THE WITNESS: The brand team
 9 operated separately, and Kadian had a
 10 separate sales force. I don't know who
 11 the members of that team were, and I
 12 don't know who managed them.
 13 BY MR. MELAMED:
 14 Q. Do you have any familiarity with
 15 the booklet used to promote Kadian that is
 16 attached to this e-mail starting at 652?
 17 MS. ZOLNER: Object to form.
 18 MS. MAHONEY: Objection.
 19 THE WITNESS: No.
 20 BY MR. MELAMED:
 21 Q. Have you seen it before?
 22 A. I may have, since I attached it,
 23 but I did not have anything to do with its
 24 development.

1 Q. Do you recall any discussions
 2 about the content of the booklet used to promote
 3 Kadian that is attached to Exhibit 8?
 4 MS. MAHONEY: Objection.
 5 THE WITNESS: No, sir.
 6 MR. MELAMED: All right. You can
 7 put that aside.
 8 (Document marked for
 9 identification as Myers Deposition
 10 Exhibit No. 9.)
 11 BY MR. MELAMED:
 12 Q. I'm handing you a document that's
 13 been marked Exhibit 9. Exhibit 9 is an e-mail
 14 string, most recent in time from Rachelle Galant
 15 to David Myers, July 14th, 2010. The Bates
 16 range is Acquired_Actavis_01373039 to 3041.
 17 Do you recognize this document?
 18 A. No.
 19 Q. Do you have any reason to believe
 20 that you did not receive this, the e-mail and
 21 the forwarded e-mail that Rachelle Galant sends
 22 to you?
 23 A. No.
 24 Q. I'd like you to turn to the

1 second page of the e-mail string, which ends
 2 3040, and it references a sell more at higher
 3 prices faster June CY 2010 award.
 4 Do you see that?
 5 A. Yes, I do.
 6 Q. Does CY stand for calendar year?
 7 A. Yes, or current year.
 8 Q. Current year.
 9 And you see that you are
 10 referenced as somebody under that header,
 11 correct?
 12 A. Yes.
 13 Q. And it's for the development of
 14 the acetic acid and F-patch ad slicks that will
 15 be utilized by the sales team to increase sales?
 16 A. Yes.
 17 Q. Is F-patch fentanyl patch?
 18 A. Yes.
 19 Q. Can you describe what an "ad
 20 slick" is?
 21 A. An ad slick is a marketing
 22 collateral piece that can be used by the sales
 23 team. It can be provided to our direct
 24 customers, and, occasionally, it can be used for

1 the next six-month time period, through the end
 2 of the year?
 3 MS. MAHONEY: Objection.
 4 THE WITNESS: I don't recall.
 5 BY MR. MELAMED:
 6 Q. Do you recall who tasked you with
 7 creating an ad slick for a fentanyl patch at
 8 Actavis?
 9 MS. ZOLNER: Objection to form.
 10 THE WITNESS: It could have been
 11 my direct supervisor, Jinping McCormick,
 12 or it could have been Michael Perfetto.
 13 BY MR. MELAMED:
 14 Q. Was Michael Perfetto Jinping
 15 McCormick's supervisor?
 16 A. Yes.
 17 Q. Do you know to whom Michael
 18 Perfetto reported?
 19 A. I believe he reported to the CEO
 20 at that time, who was -- his name escapes me.
 21 Q. Was the CEO's name Doug Boothe at
 22 that time?
 23 A. Yes, Doug Boothe. Thank you.
 24 Q. You can put that aside.

1 journal advertising, industry journal
 2 advertising.
 3 Q. And do you have any understand --
 4 let me withdraw that, because I tripped over my
 5 tongue.
 6 Do you have any understanding
 7 about how ad slicks, as a general matter, were
 8 utilized by the sales team to increase sales?
 9 MS. MAHONEY: Objection.
 10 THE WITNESS: I believe they were
 11 just used for awareness and discussions
 12 with their direct customers.
 13 BY MR. MELAMED:
 14 Q. Did you conduct any analysis of
 15 the efficacy of ad slicks to drive sales of
 16 particular drugs?
 17 A. No.
 18 Q. Do you know if anybody at Actavis
 19 did at or around this time period?
 20 A. No.
 21 Q. So you do not know -- let me
 22 withdraw that.
 23 Do you know whether sales of
 24 fentanyl patches did increase from mid-2010 in

1 (Document marked for
 2 identification as Myers Deposition
 3 Exhibit No. 10.)
 4 BY MR. MELAMED:
 5 Q. I'm handing you what's been
 6 marked as Exhibit 10. Exhibit 10 is a
 7 multi-page e-mail string, the most recent in
 8 time being from David Myers to Dorothy McEntee
 9 dated July 27th, 2010 regarding fentanyl VA
 10 mailer and 7/26/10 weekly status. It starts at
 11 Bates number ALLERGAN_MDL_01235205 and concludes
 12 at 5209.
 13 Do you recognize this document?
 14 A. No.
 15 Q. Do you have any reason to believe
 16 that you did not send the e-mail dated Tuesday,
 17 July 27, 2010 to Dorothy McEntee?
 18 A. No.
 19 Q. The contents of this e-mail were
 20 not personal; is that correct?
 21 MS. MAHONEY: Objection.
 22 THE WITNESS: Yes, that's
 23 correct.
 24 BY MR. MELAMED:

1 Q. They concerned matters within
 2 your employment at Actavis, correct?
 3 MS. MAHONEY: Objection.
 4 THE WITNESS: Yes, sir.
 5 BY MR. MELAMED:
 6 Q. In the subject line it says
 7 "Fentanyl VA Mailer."
 8 Does VA there stand for Veterans'
 9 Administration?
 10 MS. ZOLNER: Objection,
 11 foundation.
 12 THE WITNESS: I don't recall.
 13 BY MR. MELAMED:
 14 Q. Who was Dorothy McEntee?
 15 A. Dorothy McEntee was the account
 16 executive at catalyst agency, which was our
 17 agency of record at that time, our ad agency.
 18 Q. And what do you mean by "agency
 19 of record"?
 20 A. They were our main agency to do
 21 advertising work that we required.
 22 Q. So the substance of your
 23 July 27th e-mail concerns a -- revisions to an
 24 advertisement for fentanyl to be sent by mail;

1 is that correct?
 2 MS. ZOLNER: Objection to form.
 3 MS. MAHONEY: Objection.
 4 THE WITNESS: Let me read the
 5 e-mail, so I can understand.
 6 BY MR. MELAMED:
 7 Q. Sure.
 8 A. (Witness reviews document.)
 9 Can you repeat your question?
 10 Q. I'll phrase it slightly
 11 differently.
 12 A. Okay.
 13 Q. The first sentence says "Thanks
 14 for the revised Fentanyl mailer."
 15 Do you see that?
 16 A. Yes.
 17 Q. Can you tell me what that
 18 references?
 19 A. Collateral piece for fentanyl.
 20 Q. And used to promote fentanyl,
 21 correct?
 22 A. Yes.
 23 Q. To whom?
 24 A. I'm not entirely sure.

1 Q. And then the second paragraph
 2 talks about an additional project.
 3 Do you see that?
 4 A. Yes.
 5 Q. It says, "we want to move forward
 6 immediately with the insertion of the Fentanyl
 7 ad in Drug Store News."
 8 Do you see that?
 9 A. Yes.
 10 Q. So that additional project
 11 concerned the placement of an advertisement for
 12 Actavis' generic version of fentanyl?
 13 MS. MAHONEY: Objection.
 14 THE WITNESS: Yes.
 15 BY MR. MELAMED:
 16 Q. In a periodical called Drug Store
 17 News; is that accurate?
 18 MS. ZOLNER: Objection.
 19 MS. MAHONEY: Objection.
 20 THE WITNESS: Yes, I believe so.
 21 BY MR. MELAMED:
 22 Q. Do you know whether that ad ever
 23 ran in Drug Store News?
 24 A. I don't recall.

1 Q. We talked before, you said you
 2 don't know -- you don't recall to whom the
 3 revised fentanyl mailer would be sent, correct?
 4 MS. MAHONEY: Objection.
 5 THE WITNESS: Not at this moment.
 6 BY MR. MELAMED:
 7 Q. Okay. Who are the groups who
 8 would likely have -- let me withdraw that.
 9 Did you oversee the creation of
 10 mailers at this time period for Actavis
 11 concerning its generic opioid products?
 12 MS. ZOLNER: Objection, form.
 13 THE WITNESS: Could you repeat
 14 the question, please.
 15 BY MR. MELAMED:
 16 Q. Sure. Did you oversee the
 17 creation of mailers from Actavis concerning its
 18 generic opioid products in July 2010?
 19 MS. MAHONEY: Objection.
 20 THE WITNESS: I believe so.
 21 BY MR. MELAMED:
 22 Q. Who were -- as a general matter,
 23 not specific to this fentanyl mailer, who were
 24 the possible targets -- who were the possible

1 recipients of such mailers in terms of groups,
 2 groups of individuals?
 3 MS. MAHONEY: Objection.
 4 THE WITNESS: Generally, mailers
 5 could -- a mailer may not be entirely
 6 accurate for all the ways in which this
 7 can be used. As you see, we're doing
 8 insertions in Drug Store News and US
 9 Pharmacist. These are publications to
 10 the industry, not to patients. So it
 11 could be read by people at drug
 12 wholesalers, drug chains and
 13 pharmacists.
 14 The fentanyl mailer, I don't
 15 specifically recall who it went to. I
 16 believe it possibly went to pharmacists.
 17 BY MR. MELAMED:
 18 Q. Do you recall whether any mailers
 19 you oversaw concerning Actavis' generic opioids
 20 were sent directly to physicians?
 21 A. Yes.
 22 Q. And were any such mailers sent
 23 directly to physicians?
 24 A. Yes.

1 with fentanyl, I believe if memory
 2 serves correctly, that we did mail it to
 3 pharmacists, I believe, but we also used
 4 the same content, the same design and
 5 used it for industry publications.
 6 BY MR. MELAMED:
 7 Q. Do you recall any other uses for
 8 mailers such as the fentanyl mailer being
 9 discussed here?
 10 MS. MAHONEY: Objection.
 11 THE WITNESS: No.
 12 BY MR. MELAMED:
 13 Q. Was the goal of this mailer to
 14 drive sales of fentanyl?
 15 A. The goal of the mailer was to
 16 increase awareness of our type of -- our
 17 delivery system of fentanyl.
 18 Q. Why did you want to increase
 19 awareness of Actavis' delivery system of
 20 fentanyl?
 21 A. To increase sales.
 22 Q. Now, your July 27th e-mail is in
 23 response to a July 26th e-mail from Dorothy
 24 McEntee to you.

1 Q. Do you remember for which
 2 products specifically?
 3 A. I believe oxymorphone ER.
 4 Q. Do you recall whether mailers
 5 concerning any other of Actavis' generic opioids
 6 were sent directly to physicians under your --
 7 you know, during the period of time in which you
 8 were in charge of this project?
 9 A. I don't --
 10 MS. MAHONEY: Objection.
 11 THE WITNESS: I don't believe so,
 12 but I'm not entirely sure.
 13 BY MR. MELAMED:
 14 Q. You said that mailer may not be
 15 the right term to use with this specific
 16 fentanyl advertisement being discussed; is that
 17 correct?
 18 A. It may not encompass all the ways
 19 it's used.
 20 Q. Can you talk about all the ways
 21 that an advertisement such as the one being
 22 discussed here could be used?
 23 MS. MAHONEY: Objection.
 24 THE WITNESS: In this regard,

1 Do you see that?
 2 A. Yes.
 3 Q. And if you turn to page 2 of the
 4 document, which ends with the Bates number 5206,
 5 you see that there's an e-mail addressed to you
 6 from Dorothy McEntee, correct?
 7 A. Yes, sir.
 8 Q. Do you recall this e-mail?
 9 A. Only as it's shown to me now.
 10 Q. Do you have any reason to believe
 11 that you did not receive this e-mail?
 12 A. No.
 13 Q. In fact, you responded to it, so
 14 presumably you received it, correct?
 15 A. Yes, yes.
 16 Q. Thanks.
 17 In Ms. McEntee's e-mail she
 18 references the fentanyl VA mailer we were just
 19 discussing at the top, correct?
 20 A. Yes.
 21 Q. She also provides a -- what
 22 appears to be a status update concerning
 23 catalyst projects for Actavis; is that correct?
 24 A. Yes.

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1 Q. Okay. And the first item
2 discussed under "Creative" has two headers, it
3 says "Fentanyl ad - done."
4 Do you see that?
5 A. Yes.
6 Q. And then it says "Fentanyl
7 Front/Back VA Mailer (Sell Sheet and Ad
8 combined)."
9 Do you understand that to be
10 referring to two separate projects?
11 A. Probably two separate portions of
12 the same or a similar project.
13 Q. What is a sell sheet?
14 A. A sell sheet would be a handout
15 that a salesman could provide to a buyer when
16 they visit or could be provided to a trade show.
17 Q. And what is the purpose of
18 providing a sell sheet?
19 A. To promote awareness of the
20 availability of the product.
21 Q. And you wanted -- the purpose of
22 promoting awareness of the availability of a
23 product was ultimately to drive sales of that
24 product; is that right?

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1 A. Could I read through it just a
2 second.
3 Q. Sure.
4 A. (Witness reviews document.)
5 In answer to your question, I'm
6 not sure exactly the specifics. What I perceive
7 it to be is that we had discussed a possible
8 project and maybe even started a project with
9 the agency and then decided to stop production.
10 Q. And you personally had had a
11 longstanding relationship with Catalyst by this
12 point in time; is that accurate?
13 A. Yes.
14 MS. MAHONEY: Objection.
15 THE WITNESS: Yes.
16 BY MR. MELAMED:
17 Q. So your understanding is based on
18 that relationship?
19 A. Yes, how we would manage the
20 relationship.
21 Q. Do you recall whether Actavis
22 ever advertised generic Morphine Sulfate?
23 A. I do not recall.
24 MS. ZOLNER: Objection to form.

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1 A. Yes.
2 Q. If you skip down there's another
3 header for "Oxycodone." Do you see that in the
4 status update?
5 A. Yes.
6 Q. Did Catalyst work on advertising
7 for Actavis' generic oxycodone on or around this
8 time period?
9 A. I don't know if the project ever
10 got off the ground. I don't recall.
11 Q. Do you recall, as you sit here
12 right now, whether Actavis ever advertised its
13 oxycodone?
14 MS. ZOLNER: Objection, form.
15 THE WITNESS: I don't
16 specifically recall.
17 BY MR. MELAMED:
18 Q. If you look at page 3 in the
19 lighter text, the first header that says "On
20 Hold." This is the page Bates number ending
21 5207. It says, "Agency will develop a Morphine
22 Sulfate ad."
23 Do you recall -- well, what do
24 you understand "On Hold" to mean?

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1 THE WITNESS: I do not recall.
2 BY MR. MELAMED:
3 Q. The next On Hold message concerns
4 a Morphine Sulfate sell sheet.
5 Do you see that?
6 A. Yes.
7 Q. Do you know whether that
8 project -- withdraw that.
9 Do you know whether the project
10 being described there ever came off of the on
11 hold status?
12 MS. MAHONEY: Objection.
13 THE WITNESS: Let me just read
14 it. It will help familiarize me.
15 BY MR. MELAMED:
16 Q. Please.
17 A. (Witness reviews document.)
18 I don't remember if we ever
19 completed work on this.
20 Q. Do you recall whether Actavis
21 ever advertised generic Morphine Sulfate?
22 A. I do not.
23 Q. Below the section we were just
24 discussing is a header that says "Event."

1 Do you see that?

2 A. Yes.

3 Q. And then it says "3 panels

4 released to Westerly - done."

5 Do you know what event that

6 refers to?

7 A. I do not recall.

8 Q. Do you recall what drugs, if any,

9 were referenced by the three panels that are

10 referenced in the e-mail?

11 A. I do not.

12 Q. If you turn to page 4 of the

13 e-mail ends on 5208, and it says -- there's --

14 under the header "WEB" there's another "On Hold"

15 prep -- preface to a sentence.

16 Do you see that?

17 A. Yes.

18 MS. MAHONEY: Objection.

19 BY MR. MELAMED:

20 Q. It says, "(On Hold) banner ads

21 currently running on NACDS Guide can change at

22 any time until May 11th, 2011."

23 Do you understand that to mean

24 that banner ads were actually running -- banner

1 ads promoting Actavis products were actually

2 running on the NACDS Guide at this point in

3 time?

4 MS. ZOLNER: Objection.

5 Objection, foundation.

6 MS. MAHONEY: Objection.

7 THE WITNESS: Sorry. Ask me the

8 question again.

9 BY MR. MELAMED:

10 Q. Sure.

11 Do you have -- do you understand

12 this sentence to mean that banner ads for

13 Actavis products were at the time this was

14 written running on the NACDS guide?

15 A. I don't know if they were running

16 or if they were related to products.

17 Q. What do you mean "if they were

18 related to products"?

19 A. We could possibly run a banner ad

20 to promote just the company Actavis.

21 Q. Understood. Is it accurate to

22 say that Actavis did run banner ads on the NACDS

23 Guide?

24 A. At one point or another.

1 Q. What is the NACDS guide?

2 A. I believe that that is their

3 online website.

4 Q. Do you recall any specific

5 products Actavis advertised through banner ads

6 on the NACDS guide?

7 MS. MAHONEY: Objection.

8 MS. ZOLNER: Objection.

9 THE WITNESS: I don't recall.

10 BY MR. MELAMED:

11 Q. Do you recall whether Actavis ran

12 banner ads on the NACDS guide that were specific

13 to any of its products?

14 MS. ZOLNER: Objection,

15 foundation.

16 THE WITNESS: It's possible, but

17 I don't remember specifically.

18 BY MR. MELAMED:

19 Q. At the bottom of this same page

20 ending in 5208, there's a "Media Plan."

21 Do you see that?

22 A. Yes.

23 Q. And it references approved

24 insertions for August and September, correct?

1 A. Yes.

2 Q. What are -- what is meant by

3 "insertions" in those sentences. Let me

4 withdraw that.

5 Do you have an understanding of

6 what is meant by "insertions" in that sentence?

7 A. Yes.

8 Q. What is meant by insertions?

9 A. That would be an advertisement

10 that's taken out in the publication.

11 Q. And so there were approved

12 advertisements in August for Drug Store News; is

13 that correct?

14 A. Yes.

15 Q. And for US Pharmacist, correct?

16 A. Yes.

17 Q. And MRP, correct?

18 A. I believe so, because it's here.

19 I don't remember what MRP is.

20 Q. Okay. And then in September

21 there were approved insertions for Drug Store

22 News again?

23 A. Mm-hmm.

24 Q. Correct?

1 A. Yes.
2 Q. And Chain Drug Review, correct?
3 A. Yes.
4 Q. And American Health and Drug
5 Benefits, correct?
6 A. Yes.
7 Q. Do you recall the content of any
8 of those advertisements?
9 A. I do not.
10 Q. Do you recall whether they
11 related to Actavis generally?
12 MS. ZOLNER: Objection, form.
13 THE WITNESS: I don't remember
14 the content of these specific ads for
15 that -- those months.
16 BY MR. MELAMED:
17 Q. So is it accurate that they could
18 have been specific to individual Actavis
19 products?
20 MS. MAHONEY: Objection.
21 THE WITNESS: It's not
22 impossible.
23 BY MR. MELAMED:
24 Q. Did Actavis, to the best of your

1 knowledge, ever advertise individual specific
2 products through media insertions in
3 periodicals?
4 A. Yes, I believe so.
5 Q. Do you recall whether it ever
6 advertised any specific opioid products through
7 media insertions in periodicals?
8 A. It is possible.
9 Q. You don't recall either way?
10 A. No.
11 Q. If you look at the bottom, very
12 bottom of 4, it says, "Insertion Orders" and
13 then continues on to 5 to say "Ideally, 50% of
14 placement should be product advertising."
15 Do you see that?
16 A. Yes.
17 Q. Does that refresh your
18 recollection whether the ads concerned specific
19 Actavis products?
20 A. It refreshes my recollection that
21 that was a target that we would like to meet.
22 Whether we met it, I don't know. And the
23 specific products, I don't have -- I don't
24 recollect an entire list of what we advertised.

1 Q. You can put that aside.
2 (Document marked for
3 identification as Myers Deposition
4 Exhibit No. 11.)
5 BY MR. MELAMED:
6 Q. I'm handing you what's been
7 marked as Exhibit 11.
8 Exhibit 11 is an e-mail string,
9 most recent in time being from Dorothy McEntee
10 to David Myers, cc'ing others on July 29th,
11 2010, subject re: "Fentanyl Advertisingm - DSN
12 PI info needed." Bates range is from
13 Acquired_Actavis_00954338 through 340.
14 Do you recognize this e-mail
15 string?
16 A. No.
17 Q. Do you have any reason to think
18 that you did not -- this is not you who -- let
19 me withdraw that.
20 Do you have any reason to believe
21 that you did not receive the most recent e-mail
22 in time from Dorothy McEntee?
23 A. No.
24 Q. And do you have any reason to

1 believe that you did not send the e-mail
2 reflected on the middle of the first page of
3 this 4338 that's addressed Dorothy, et al.?
4 A. No, I believe I sent it.
5 Q. Okay. And is that the same
6 for -- if you look on page 2, I just want to see
7 if you have any reason to believe -- let me --
8 on the second page, 4339, there's an e-mail from
9 Cristina Garcia to you, cc'ing Jinping McCormick
10 and Terri Nataline.
11 Do you have any reason to believe
12 you did not receive that e-mail from Cristina
13 Garcia?
14 A. No.
15 Q. And below that is an e-mail that
16 commences the string from you to Cristina
17 Garcia, cc'ing Jinping McCormick and Terri
18 Nataline.
19 A. It appears to be that way.
20 Q. And do you believe that you -- do
21 you have any reason to believe you did not send
22 that first e-mail in time on July 27th, 2010?
23 A. No.
24 Q. These e-mails are not personal

1 e-mails, correct?

2 MS. MAHONEY: Objection.

3 THE WITNESS: No.

4 BY MR. MELAMED:

5 Q. And by that I mean, they are, to

6 the contrary, e-mails concerning your employment

7 at Actavis, correct?

8 MS. MAHONEY: Objection.

9 THE WITNESS: Yes.

10 BY MR. MELAMED:

11 Q. And they concern a -- if you go

12 back to the first page of the e-mail string, in

13 your e-mail, second in time -- second most

14 recent, the one that starts Dorothy, et al., it

15 says, "Attached are the Word files for use in

16 creating the full PI attachment for Drug Store

17 News. I believe the order of the text should

18 be, insert, med guide, instructions for

19 applying. Please proceed with formatting these

20 into an appropriate form for insertion in Drug

21 Store News."

22 Do you see that?

23 A. Yes.

24 Q. So this concerned an

1 advertisement that Catalyst was working on for

2 Actavis for insertion in a periodical called

3 Drug Store News; is that correct?

4 MS. MAHONEY: Objection.

5 THE WITNESS: I believe so.

6 BY MR. MELAMED:

7 Q. And the advertisement concerned

8 fentanyl; is that correct?

9 A. Yes.

10 Q. And if you look at your e-mail on

11 the next page, so going back in time, on the

12 Bates -- the page ending with Bates number 4339,

13 the second paragraph you talk about -- or you

14 wrote, "Now we are looking to use the Fentanyl

15 'binoculars' ad creative in an actual trade

16 journal advertisement, and I need some guidance

17 from you."

18 Do you see that?

19 A. Yes.

20 Q. Is it your understanding that the

21 advertisement that this e-mail string continues

22 to address as it moves forward in time concerns

23 that -- formatting of that fentanyl binoculars

24 ad for placement in the Drug Store News?

1 MS. ZOLNER: Objection, form.

2 THE WITNESS: Let me take a

3 moment to read the --

4 BY MR. MELAMED:

5 Q. Yes.

6 A. (Witness reviews document.)

7 Okay. I'm sorry. Can you repeat

8 your question.

9 Q. Sure.

10 Is it your understanding that the

11 e-mail string, as it moves forward in time, so

12 back to -- towards page 1 of the exhibit,

13 concerns formatting of an ad for fentanyl using

14 the binoculars, in quotes, for Drug Store News?

15 MS. MAHONEY: Objection.

16 THE WITNESS: I believe so.

17 BY MR. MELAMED:

18 Q. Do you know whether that

19 advertisement was ever placed in Drug Store

20 News?

21 A. I don't recall.

22 Q. As you sit here today, do you

23 have any reason to believe that it was not

24 placed in Drug Store News?

1 MS. MAHONEY: Objection.

2 THE WITNESS: I have no reason to

3 believe that it was not, but, as you've

4 seen in the other documents, sometimes

5 we put projects on hold.

6 BY MR. MELAMED:

7 Q. Understood.

8 You can put that document aside.

9 Actavis also marketed and sold

10 generic buprenorphine; is that correct?

11 MS. MAHONEY: Objection.

12 THE WITNESS: Yes.

13 BY MR. MELAMED:

14 Q. And how do you know that?

15 A. I believe that I was either the

16 product manager or involved in perhaps the

17 advertising of that product.

18 Q. Are you aware of any market

19 research Actavis conducted regarding

20 buprenorphine before Actavis launched its

21 generic version of the drug?

22 MS. ZOLNER: Objection.

23 MS. MAHONEY: Objection.

24 THE WITNESS: Can you define

1 "market research"? That's a broad term.
 2 BY MR. MELAMED:
 3 Q. Sure. Do you know whether
 4 Actavis conducted any analysis to consider the
 5 potential revenues to be gained from selling
 6 generic version of buprenorphine before
 7 launching the drug?
 8 A. Yes.
 9 Q. Do you know who performed that?
 10 MS. MAHONEY: Objection.
 11 THE WITNESS: I do not.
 12 BY MR. MELAMED:
 13 Q. You know that buprenorphine is a
 14 drug used to treat opioid addiction, correct?
 15 A. I believe so.
 16 Q. So it is true that at the time
 17 Actavis was marketing and selling opioids,
 18 including Kadian, fentanyl patch we've
 19 discussed, oxycodone, it was also marketing and
 20 selling a drug used to treat opioid addiction,
 21 correct?
 22 MS. MAHONEY: Objection.
 23 THE WITNESS: I believe so.
 24 (Document marked for

1 identification as Myers Deposition
 2 Exhibit No. 12.)
 3 BY MR. MELAMED:
 4 Q. I'm handing you what's been
 5 marked Myers Exhibit 12. Myers Exhibit 12
 6 starts with an e-mail from Steve Kane to David
 7 Myers and Dorothy -- cc'ing Dorothy McEntee on
 8 September 13th, 2010, subject is Re:
 9 "buprenorphine advertisement." It contains a
 10 series of attachments, and then within the
 11 document on page Bates number ending 3147
 12 contains another e-mail from David Myers to --
 13 addressed to Dorothy and a series of
 14 attachments. The entire Bates range of the
 15 document is Acquired_Actavis_01373136 through
 16 3160.
 17 Do you recall this document?
 18 A. No.
 19 Q. If you turn to -- I want to start
 20 with your e-mail, which is on the page with the
 21 Bates number ending 3147.
 22 A. Okay.
 23 Q. And you write that "we'd like to
 24 begin development on a new drug we expect to be

1 approved in October", and then you provide
 2 details.
 3 Do you see that?
 4 A. Yes, sir.
 5 Q. And the drug was buprenorphine
 6 hydrochloride sublingual tablets, correct?
 7 A. Yes.
 8 Q. Do you recall whether you
 9 received approval on or around October 2010 to
 10 sell that drug?
 11 A. I know we received approval. I
 12 don't recall the date.
 13 Q. Okay. And you provide other
 14 specific information about the drug in the
 15 bullets?
 16 A. Mm-hmm.
 17 Q. And then if you turn to the next
 18 page, the paragraph that begins, as usual,
 19 provides some guidance about the type of
 20 advertisement you would like to see, correct?
 21 A. Yes.
 22 MS. MAHONEY: Objection.
 23 THE WITNESS: Yes.
 24 BY MR. MELAMED:

1 Q. In the last sentence you say it,
 2 referring to the ad or the imagery -- what does
 3 "it" refer to in the last sentence?
 4 A. Let me read. (Witness reviews
 5 document.)
 6 What does "it" refer to is your
 7 question?
 8 Q. Yes.
 9 A. "It" is the advertising concept.
 10 Q. Okay. So you write that the
 11 concept, the advertising concepts can be
 12 indication adjacent and reference the use of the
 13 moon in the Zolpidem ad.
 14 A. Yes.
 15 MS. MAHONEY: Objection.
 16 BY MR. MELAMED:
 17 Q. Correct?
 18 A. Yes.
 19 Q. Zolpidem is a sleeping aid; is
 20 that correct?
 21 A. Yes.
 22 Q. And so you note that that ad for
 23 zolpidem did not say anything about making you
 24 sleep, correct?

<p style="text-align: right;">Page 157</p> <p>1 MS. MAHONEY: Objection.</p> <p>2 THE WITNESS: I believe it did</p> <p>3 not.</p> <p>4 BY MR. MELAMED:</p> <p>5 Q. According to what you write, you</p> <p>6 use the moon to be indication adjacent as</p> <p>7 suggestive of sleep, without saying anything of</p> <p>8 sleep; is that an accurate summary?</p> <p>9 MS. ZOLNER: Objection to form.</p> <p>10 MS. MAHONEY: Objection.</p> <p>11 THE WITNESS: I think that's an</p> <p>12 assumption.</p> <p>13 BY MR. MELAMED:</p> <p>14 Q. Does that reflect accurately the</p> <p>15 assumption you think is expressed in your</p> <p>16 sentence that starts with can be indication</p> <p>17 adjacent?</p> <p>18 MS. ZOLNER: Objection, form.</p> <p>19 THE WITNESS: Possibly, yes.</p> <p>20 BY MR. MELAMED:</p> <p>21 Q. Is there any reason for the</p> <p>22 hesitation, the possibly in that response?</p> <p>23 A. Only because I know that we've</p> <p>24 used images and imagery that had nothing to do</p>	<p style="text-align: right;">Page 158</p> <p>1 with what the drug did.</p> <p>2 Q. But in zolpidem --</p> <p>3 A. In zolpidem it does say it was</p> <p>4 indication adjacent.</p> <p>5 Q. And the moon was used as adjacent</p> <p>6 to sleep --</p> <p>7 A. Yes.</p> <p>8 Q. -- is that correct?</p> <p>9 A. Yes.</p> <p>10 MS. MAHONEY: Objection. Please</p> <p>11 give me an opportunity to object, David.</p> <p>12 THE WITNESS: Thank you. I'm</p> <p>13 sorry.</p> <p>14 BY MR. MELAMED:</p> <p>15 Q. So the guidance that you were</p> <p>16 providing to Dorothy was that you could -- she</p> <p>17 could use an analogy similar to the moon for a</p> <p>18 sleeping aid for a drug used to treat opioid</p> <p>19 addiction.</p> <p>20 Is that your understanding of</p> <p>21 what you wrote?</p> <p>22 MS. ZOLNER: Objection to form.</p> <p>23 MS. MAHONEY: Objection.</p> <p>24 THE WITNESS: That was my opinion</p>
<p style="text-align: right;">Page 159</p> <p>1 at the time, not a legal or regulatory</p> <p>2 approved guidance.</p> <p>3 BY MR. MELAMED:</p> <p>4 Q. Fair enough. I'm not asking you</p> <p>5 to speak for legal or regulatory approved,</p> <p>6 unless I specifically ask you that question.</p> <p>7 A. Okay.</p> <p>8 Q. All right. If you could turn</p> <p>9 back to the second page now. I just want to</p> <p>10 look at some of these concepts, so the page</p> <p>11 ending in 3137.</p> <p>12 The text says "leave the past</p> <p>13 behind."</p> <p>14 Do you see that?</p> <p>15 A. Yes, sir.</p> <p>16 Q. Do you understand what is meant</p> <p>17 by "the past" in this sentence?</p> <p>18 A. I can infer what it means.</p> <p>19 Q. What is your inference?</p> <p>20 A. Since this is a drug to help</p> <p>21 people get off of drug dependence, it's starting</p> <p>22 anew.</p> <p>23 Q. Getting off the drug?</p> <p>24 A. That's what they're proposing,</p>	<p style="text-align: right;">Page 160</p> <p>1 what this ad agency is proposing.</p> <p>2 Q. Right.</p> <p>3 And so the proposal is the past</p> <p>4 is leaving that drug dependence behind?</p> <p>5 A. That's inferred, yes.</p> <p>6 Q. Okay. And the sketch appears to</p> <p>7 be bars of a jail cell, correct?</p> <p>8 A. Mm-hmm.</p> <p>9 Q. And those bars have been bent so</p> <p>10 that somebody has -- the implication being that</p> <p>11 somebody has escaped; is that right?</p> <p>12 A. Yes.</p> <p>13 Q. So the jail cell represented</p> <p>14 opioid addiction in this drawing; is that</p> <p>15 correct?</p> <p>16 MS. ZOLNER: Objection form.</p> <p>17 MS. MAHONEY: Objection.</p> <p>18 BY MR. MELAMED:</p> <p>19 Q. Let me restate that.</p> <p>20 How do you understand what the</p> <p>21 jail cell represents in this drawing?</p> <p>22 MS. ZOLNER: Objection,</p> <p>23 foundation.</p> <p>24 THE WITNESS: I believe it could</p>

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1 be interpreted that had way, but I did
 2 not create the creative.
 3 BY MR. MELAMED:
 4 Q. I'm asking you for -- to be
 5 clear, and your answer was clear on this, I'm
 6 asking for your interpretation.
 7 So your interpretation is that
 8 this drawing, the drawing of the bars represents
 9 the addiction and that the fact that the bars
 10 are broken and bent in the middle represents an
 11 escape from addiction?
 12 MS. ZOLNER: Objection to form.
 13 MS. MAHONEY: Objection, asked
 14 and answered, mischaracterizes the
 15 testimony.
 16 BY MR. MELAMED:
 17 Q. Is that accurate? And if it's
 18 not, please tell me.
 19 A. That would be my personal
 20 impression.
 21 Q. If you turn to the next page,
 22 3138. It says "Independence day".
 23 Do you agree that that appears to
 24 be a firework?

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1 A. Yes.
 2 Q. So independence from opioid
 3 addiction?
 4 A. Yes.
 5 MS. ZOLNER: Objection to form.
 6 MS. MAHONEY: Objection. You
 7 really have to give us an opportunity to
 8 object, please, David.
 9 THE WITNESS: Could you restate
 10 your question, please.
 11 BY MR. MELAMED:
 12 Q. Sure. So your understanding is
 13 that independence here meant independence from
 14 opioid addiction; is that correct?
 15 MS. ZOLNER: Objection,
 16 foundation.
 17 MS. MAHONEY: Objection.
 18 THE WITNESS: I'm assuming so.
 19 BY MR. MELAMED:
 20 Q. Do you recall discussing any of
 21 these ad concepts after they were sent to you?
 22 A. No.
 23 Q. Turn to the next page, which ends
 24 3139.

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1 A. Yes, sir.
 2 Q. Okay. And to what do you
 3 understand the word independence to be referring
 4 to?
 5 MS. ZOLNER: Objection,
 6 foundation.
 7 THE WITNESS: The word
 8 independence or Independence day?
 9 BY MR. MELAMED:
 10 Q. The word independence.
 11 A. As it relates to this ad?
 12 Q. Yes.
 13 MS. MAHONEY: Objection.
 14 BY MR. MELAMED:
 15 Q. Let me put that differently.
 16 Independence from what?
 17 MS. MAHONEY: Objection.
 18 THE WITNESS: Independence from
 19 habits that the user would have, in this
 20 case possibly drug addiction.
 21 BY MR. MELAMED:
 22 Q. This drug was approved for --
 23 to -- as a treatment for opioid addiction,
 24 correct?

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1 You see the header says "A new
 2 start"?
 3 A. Yes.
 4 Q. Do you have any understanding of
 5 what is -- let me withdraw that.
 6 Do you have an understanding of
 7 what is meant by "A new start"?
 8 A. I believe in conjunction with the
 9 imagery of a butterfly that it means a rebirth.
 10 Q. And does it follow that that
 11 rebirth is after leaving opioid addiction
 12 behind?
 13 MS. ZOLNER: Objection, form.
 14 MS. MAHONEY: Objection.
 15 THE WITNESS: It's possible,
 16 since that was the subject of this ad.
 17 BY MR. MELAMED:
 18 Q. Is that your interpretation of
 19 the drawing?
 20 MS. MAHONEY: Objection.
 21 THE WITNESS: My personal
 22 interpretation.
 23 BY MR. MELAMED:
 24 Q. Turn to the next page, which ends

<p style="text-align: right;">Page 165</p> <p>1 3140. And it says "Break the ties that bind." 2 And do you agree with me that 3 that appears to be a drawing of a broken chain? 4 A. Yes, sir. 5 Q. Okay. What is your understanding 6 of what "the ties that bind" refer to? 7 MS. MAHONEY: Objection. 8 THE WITNESS: My personal opinion 9 in relationship to this topic is 10 breaking drug addiction. 11 BY MR. MELAMED: 12 Q. And because of this specific 13 product we're talking about, would it be fair to 14 say that it was breaking opioid addiction? 15 MS. ZOLNER: Objection to form. 16 MS. MAHONEY: Objection. 17 THE WITNESS: I believe so. 18 BY MR. MELAMED: 19 Q. And do you understand the 20 drawing, the chain in the drawing to represent 21 opioid addiction? 22 MS. ZOLNER: Objection to form. 23 THE WITNESS: I believe not based 24 on the drawing of the chain, I believe</p>	<p style="text-align: right;">Page 166</p> <p>1 based on the indication for the drug 2 that's being proposed here. 3 BY MR. MELAMED: 4 Q. So based on the indication of the 5 drug, combined with the drawing, your 6 understanding is that the -- that chain 7 represents opioid addiction? 8 MS. ZOLNER: Objection. 9 BY MR. MELAMED: 10 Q. Is that accurate? 11 MS. ZOLNER: Objection, form. 12 MS. MAHONEY: Objection. 13 THE WITNESS: Yes, I believe so. 14 BY MR. MELAMED: 15 Q. And that the drug being 16 advertised will help break that chain of 17 addiction? 18 MS. ZOLNER: Objection, form. 19 THE WITNESS: I believe that is 20 what the artist is proposing. 21 BY MR. MELAMED: 22 Q. If you turn the page to the 23 drawing on 3141. This says "A bright new path." 24 And it appears to be either a</p>
<p style="text-align: right;">Page 167</p> <p>1 sunrise or a sunset in front of a road and 2 rolling hills. 3 Does that reflect what you see as 4 well? 5 MS. ZOLNER: Objection to form. 6 MS. MAHONEY: Objection. 7 THE WITNESS: Yes. 8 BY MR. MELAMED: 9 Q. How would you describe that 10 drawing? 11 MS. MAHONEY: Objection. 12 THE WITNESS: It looks like a 13 sunrise or sunset towards the horizon. 14 BY MR. MELAMED: 15 Q. And the header says "A bright new 16 path." 17 You see that, correct? 18 A. Yes. 19 Q. Is your understanding of that 20 bright new path that it leaves a dark, old path 21 behind? 22 MS. ZOLNER: Objection, form. 23 MS. MAHONEY: Objection. 24 THE WITNESS: I believe it means</p>	<p style="text-align: right;">Page 168</p> <p>1 a new direction in your life. 2 BY MR. MELAMED: 3 Q. And you mean -- your 4 understanding that it means a new direction in 5 one's life, what is the -- do you have any 6 understanding of the reason that a new direction 7 was being promoted here? 8 MS. MAHONEY: Objection. 9 THE WITNESS: You can assume, 10 based on -- that this is a proposed 11 advertisement for buprenorphine that it 12 might be to change your life if you 13 happen to be a person who has become 14 addicted. 15 BY MR. MELAMED: 16 Q. And, again, addicted to opioids, 17 correct? 18 MS. MAHONEY: Objection. 19 MS. ZOLNER: Objection. 20 THE WITNESS: I believe that's 21 what the drug is indicated for. I'm not 22 entirely sure. 23 BY MR. MELAMED: 24 Q. Let's skip ahead to the one --</p>

<p style="text-align: right;">Page 169</p> <p>1 the drawing on 3143. You see it says "Finding 2 the way home"?</p> <p>3 A. Yes.</p> <p>4 Q. And how would you describe the 5 scene being depicted in that drawing?</p> <p>6 A. It looks as --</p> <p>7 MS. MAHONEY: Objection.</p> <p>8 THE WITNESS: It looks as if a 9 bird has been released from a cage.</p> <p>10 BY MR. MELAMED:</p> <p>11 Q. And how would you interpret, 12 given the indication of the drug being 13 advertised, how would you interpret the phrase 14 "finding the way home"? What is meant by that?</p> <p>15 MS. ZOLNER: Objection, form.</p> <p>16 THE WITNESS: Being set free from 17 possibly drug addiction, since this is a 18 drug -- a drug that is indicated to help 19 you with addiction.</p> <p>20 BY MR. MELAMED:</p> <p>21 Q. And in the drawing, is it your 22 understanding that the bird represents the 23 person being set free from that addiction?</p> <p>24 MS. MAHONEY: Objection.</p>	<p style="text-align: right;">Page 170</p> <p>1 MS. ZOLNER: Objection.</p> <p>2 THE WITNESS: Potentially.</p> <p>3 BY MR. MELAMED:</p> <p>4 Q. And do you have any understanding 5 of what the cage represents in this -- how would 6 you interpret what the cage represents in this 7 drawing?</p> <p>8 A. Well, that's my personal opinion. 9 The cage in this might be the cage of addiction, 10 being trapped in addiction.</p> <p>11 Q. Can you think of any other 12 interpretations, as you sit here?</p> <p>13 MS. MAHONEY: Objection.</p> <p>14 MS. ZOLNER: Objection.</p> <p>15 THE WITNESS: Not necessarily.</p> <p>16 BY MR. MELAMED:</p> <p>17 Q. If you turn to the next page, 18 ends 3144, it's the same drawing that we were 19 just looking at, correct?</p> <p>20 A. Yes.</p> <p>21 Q. The only difference is the tag 22 line at the top, correct?</p> <p>23 A. Yes.</p> <p>24 Q. And it says "Free at last."</p>
<p style="text-align: right;">Page 171</p> <p>1 A. Yes.</p> <p>2 Q. Do you have any understanding of 3 what was meant by "Free at last"?</p> <p>4 MS. ZOLNER: Objection.</p> <p>5 MS. MAHONEY: Objection.</p> <p>6 THE WITNESS: Similar to the 7 other ads, I would think it would denote 8 a new beginning or a different path.</p> <p>9 BY MR. MELAMED:</p> <p>10 Q. Do you understand -- let me 11 withdraw that.</p> <p>12 Free from what?</p> <p>13 MS. ZOLNER: Objection.</p> <p>14 MS. MAHONEY: Objection.</p> <p>15 MS. ZOLNER: Foundation.</p> <p>16 THE WITNESS: The inference might 17 be free from drug addiction.</p> <p>18 BY MR. MELAMED:</p> <p>19 Q. And you're developing that 20 inference based on the indication of the drug 21 being advertised?</p> <p>22 A. And the image.</p> <p>23 MS. ZOLNER: Objection to form.</p> <p>24 MS. MAHONEY: Objection.</p>	<p style="text-align: right;">Page 172</p> <p>1 THE WITNESS: And the image.</p> <p>2 BY MR. MELAMED:</p> <p>3 Q. To just be clear, I know there 4 were objections, I'm not trying to get over 5 those.</p> <p>6 The -- it was the -- I'll reask 7 my question and I'll state what I think your 8 answer is, and then you guys can object, I'll 9 give you time.</p> <p>10 The question was you were 11 developing that inference based on the 12 indication of the drug being advertised, and 13 there were objections.</p> <p>14 And you said "and the image."</p> <p>15 So your answer was you developed 16 that inference based on the indication of the 17 drug being advertised and the image being 18 represented on this page?</p> <p>19 A. Yes.</p> <p>20 MS. MAHONEY: Objection.</p> <p>21 MS. ZOLNER: Objection to form.</p> <p>22 THE WITNESS: Yes.</p> <p>23 BY MR. MELAMED:</p> <p>24 Q. Turn the page to 3145, and,</p>

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1 again, we've seen this drawing before, correct?
 2 A. Yes.
 3 Q. Okay. The difference is the tag
 4 line, which says "Toward a brighter tomorrow,"
 5 correct?
 6 A. Yes.
 7 Q. Given your understanding of the
 8 indication for which the drug being
 9 advertised -- withdrawn.
 10 Given your understanding of the
 11 indication of the drug being advertised, how do
 12 you interpret "Toward a brighter tomorrow"?
 13 MS. ZOLNER: Objection.
 14 MS. MAHONEY: Objection.
 15 THE WITNESS: A new path away
 16 from drug addiction.
 17 BY MR. MELAMED:
 18 Q. If you turn the page to 3146.
 19 Again, we see the same drawing, correct?
 20 A. Yes.
 21 Q. Okay. And this time it says "A
 22 road to freedom."
 23 Do you see that?
 24 A. Yes.

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1 BY MR. MELAMED:
 2 Q. What about in the --
 3 A. -- and interpreting it.
 4 Q. What about in the text? The text
 5 says "A road to freedom." Do you have any
 6 understanding of what is meant by the word
 7 "road" in that given the context of
 8 advertisement -- this potential advertisement?
 9 MS. ZOLNER: Objection.
 10 MS. MAHONEY: Objection.
 11 THE WITNESS: I believe they mean
 12 it to be -- to imply that the drug could
 13 help you do freedom from -- from drug
 14 addiction.
 15 BY MR. MELAMED:
 16 Q. And then there's I believe one
 17 more drawing on 3147. And you see the tag line
 18 says "Breaking free"?
 19 A. Yes, sir.
 20 Q. And then you see that it's
 21 accompanied by a drawing, correct?
 22 A. Yes.
 23 Q. What do you understand that
 24 drawing to be depicting?

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1 Q. Based on your understanding of
 2 the indication of the drug being advertised and
 3 the drawing, do you understand "A road to
 4 freedom" to mean freedom from opioid addiction?
 5 MS. MAHONEY: Objection.
 6 THE WITNESS: That is my personal
 7 opinion.
 8 BY MR. MELAMED:
 9 Q. Do you understand buprenorphine
 10 to be the road as reflected in this drawing?
 11 MS. ZOLNER: Objection.
 12 MS. MAHONEY: Objection.
 13 THE WITNESS: I don't know that I
 14 necessarily see it that way.
 15 BY MR. MELAMED:
 16 Q. So you don't agree with that one,
 17 in contrast to many of the others we've talked
 18 about?
 19 MS. ZOLNER: Objection to form.
 20 MS. MAHONEY: Objection.
 21 THE WITNESS: I agree that
 22 artwork is subject to the person who is
 23 looking at it --
 24

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1 A. It looks as if someone has broken
 2 out of a jail and is heading towards a new
 3 horizon.
 4 Q. Given the context of this
 5 advertisement, do you agree that the jail cell
 6 represents addiction?
 7 MS. ZOLNER: Objection.
 8 MS. MAHONEY: Objection.
 9 THE WITNESS: I interpret the
 10 artist representation to mean it that
 11 way, yes.
 12 BY MR. MELAMED:
 13 Q. And concerning the tag line,
 14 "Breaking free," do you understand that to imply
 15 that this buprenorphine would help an opioid
 16 addicted person break free from their addiction?
 17 MS. MAHONEY: Objection.
 18 THE WITNESS: Could you please
 19 repeat that again.
 20 BY MR. MELAMED:
 21 Q. Sure.
 22 Do you understand the tag line
 23 "Breaking free" to imply that buprenorphine
 24 would help an opioid addicted person break free

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1 from their addiction?
 2 MS. ZOLNER: Objection to form.
 3 MS. MAHONEY: Objection.
 4 THE WITNESS: I believe that is
 5 what the artist creative person was
 6 trying to make that association.
 7 BY MR. MELAMED:
 8 Q. And I asked this before, I don't
 9 recall your answer, so I apologize for asking
 10 again, do you know if any -- if any of these
 11 ads -- let me withdraw that.
 12 Do you know in any ads based on
 13 the concepts reflected in this exhibit, Exhibit
 14 12, were ever used in any advertisements put out
 15 by Actavis?
 16 MS. ZOLNER: Objection, form.
 17 THE WITNESS: I believe -- I
 18 believe that one of the concepts was
 19 used, probably not as is.
 20 BY MR. MELAMED:
 21 Q. Do you recall which concept was
 22 used?
 23 A. I don't remember the tag line or
 24 the headline. I remember the sun, the horizon

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1 --
 2 Q. So something like --
 3 A. -- being developed.
 4 Q. -- the horizon on 3145?
 5 A. Yes.
 6 Q. Do you recall whether the tag
 7 lines were similar to any of the tag lines we
 8 just reviewed?
 9 MS. MAHONEY: Objection.
 10 MS. ZOLNER: Objection, form.
 11 THE WITNESS: I don't recall what
 12 the tag line was.
 13 BY MR. MELAMED:
 14 Q. Do you recall where
 15 advertisements that used the picture of the sun,
 16 horizon were placed?
 17 MS. ZOLNER: Objection, form.
 18 THE WITNESS: I don't remember a
 19 full, comprehensive list.
 20 BY MR. MELAMED:
 21 Q. Do you recall whether they were
 22 targeted towards pharmacies?
 23 MS. MAHONEY: Objection.
 24 THE WITNESS: Possibly, but I

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1 don't recall.
 2 BY MR. MELAMED:
 3 Q. Do you recall whether they were
 4 targeted towards distributors?
 5 MS. MAHONEY: Objection.
 6 MS. ZOLNER: Objection.
 7 THE WITNESS: Possibly.
 8 BY MR. MELAMED:
 9 Q. By "they" in those questions, you
 10 understand I'm talking about ads, correct?
 11 A. Yeah.
 12 Q. Okay. Do you recall whether they
 13 were targeted towards doctors?
 14 MS. ZOLNER: Objection.
 15 MS. MAHONEY: Objection.
 16 THE WITNESS: I don't remember
 17 them going to doctors. It is possible.
 18 BY MR. MELAMED:
 19 Q. Do you recall whether they were
 20 placed in publications likely to be read by
 21 patients?
 22 MS. ZOLNER: Objection.
 23 THE WITNESS: That's highly
 24 unlikely.

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1 MR. MELAMED: Let's go off the
 2 record.
 3 THE VIDEOGRAPHER: The time is
 4 12:19 p.m. We're going off the record.
 5 (Luncheon recess.)
 6 THE VIDEOGRAPHER: The time is
 7 1:07 p.m., and we're back on the record.
 8 BY MR. MELAMED:
 9 Q. Welcome back. Just looking to
 10 see if the doors were closed.
 11 A. Thank you.
 12 Q. Can you pull back out Exhibit 9,
 13 should be in your pile. It starts with an
 14 e-mail from Rachelle Galant to you.
 15 And we talked about this earlier.
 16 Do you recall you testifying that you had
 17 received an award for June CY, which was current
 18 year or calendar year, 2010?
 19 A. Yes.
 20 Q. Was there a monetary award
 21 associated with that?
 22 A. I don't recall.
 23 Q. Do you recall whether you ever
 24 received monetary rewards -- let me withdraw

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1 that.
2 Was the sell more at higher
3 prices faster award given other than the
4 instance noted in Exhibit 9, to your knowledge?
5 MS. MAHONEY: Objection.
6 THE WITNESS: The sell more at
7 higher prices faster moniker could apply
8 to anything, anybody that management
9 wanted to acknowledge publicly for
10 completing a project successfully or,
11 you know, going an extra mile.
12 BY MR. MELAMED:
13 Q. And so they did -- management --
14 withdraw that.
15 Is it true that management did
16 recognize other individuals, aside from
17 Ms. Pehlke and yourself at other times for their
18 work under the moniker sell more at higher
19 prices faster?
20 MS. MAHONEY: Objection.
21 THE WITNESS: Yes.
22 BY MR. MELAMED:
23 Q. About how frequently did they
24 acknowledge individuals -- withdraw it.

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1 About how frequently were
2 individuals acknowledged --
3 MS. ZOLNER: Objection.
4 BY MR. MELAMED:
5 Q. -- under the course -- the
6 moniker sell more at higher prices faster?
7 MS. ZOLNER: Objection.
8 BY MR. MELAMED:
9 Q. To your recollection?
10 MS. ZOLNER: Objection,
11 foundation, and I apologize, I kept
12 thinking the time was right.
13 THE WITNESS: So the question was
14 how often were people recognized under
15 this? I don't recall the frequency.
16 BY MR. MELAMED:
17 Q. Do you recall whether it was
18 approximately monthly?
19 A. It could be, yes.
20 Q. Did you ever -- do you recall
21 ever being acknowledged under the sell more at
22 higher prices faster moniker at any other time
23 during your employment at Actavis?
24 MS. MAHONEY: Objection.

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1 THE WITNESS: Yes.
2 BY MR. MELAMED:
3 Q. Do you recall whether -- how many
4 other times in your -- if you can remember?
5 A. I don't remember specifically.
6 Q. Approximately how many times?
7 A. Four or five times over the
8 years.
9 Q. Were any of those times prior to
10 the instance on July 13th, 2010?
11 A. Were any of them prior? I
12 couldn't say for sure.
13 Q. And do you remember whether any
14 of them were after July 13th, 2010?
15 A. I couldn't be sure.
16 Q. Do you recall what any other
17 projects you were recognized for under the sell
18 more at higher prices faster moniker?
19 MS. MAHONEY: Objection.
20 THE WITNESS: Yes.
21 BY MR. MELAMED:
22 Q. What other projects were they?
23 A. The one that you referred to
24 earlier about the NACDS, that would have been

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1 the similar program or the same program.
2 Q. Okay. Any others?
3 MS. MAHONEY: Objection.
4 THE WITNESS: I don't recall
5 specifically.
6 BY MR. MELAMED:
7 Q. All right. Did your compensation
8 include incentive awards?
9 A. There is a once annual bonus
10 program that I participate in.
11 Q. And did that bonus -- did the --
12 withdraw that.
13 Did that bonus program change
14 over time from the period starting approximately
15 2008 to present?
16 A. The company offers an incentive
17 bonus, and it reserves the right to change it
18 constantly, and so there have been tweaks to the
19 measurements and things like that over the
20 years.
21 Q. Is the -- does the incentive --
22 withdraw that.
23 What did your incentive
24 compensation incentivize?

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1 MS. ZOLNER: Objection, form.
 2 MS. MAHONEY: Objection.
 3 THE WITNESS: It incentivized me
 4 to meet the goals within my annual
 5 performance review.
 6 BY MR. MELAMED:
 7 Q. Did any of your goals have to do
 8 with product sales?
 9 A. I don't --
 10 MS. MAHONEY: Objection.
 11 THE WITNESS: I don't recall any
 12 specific links to sales.
 13 BY MR. MELAMED:
 14 Q. Do you recall specific links to
 15 any metric?
 16 A. Yes.
 17 Q. What metrics?
 18 A. One metric is for forecasting
 19 accuracy. I believe another was for preparing
 20 advertising as required, and there could be many
 21 other subcategories that all make up part of my
 22 entire performance that's reviewed annually.
 23 Q. You said you don't recall any of
 24 it having to do -- any of your incentive

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1 compensation having to do with sales, correct?
 2 MS. MAHONEY: Objection.
 3 THE WITNESS: Yes, I believe
 4 that's what I said.
 5 BY MR. MELAMED:
 6 Q. Do you recall any having to do
 7 with revenues generated by the company or any
 8 subset of the company?
 9 MS. ZOLNER: Objection, form.
 10 THE WITNESS: Not directly to me.
 11 BY MR. MELAMED:
 12 Q. Was your incentive compensation
 13 indirectly affected by the company's revenues?
 14 A. Yes.
 15 Q. How so?
 16 A. In order for the company to pay a
 17 bonus, the company had to meet a certain
 18 threshold of its annual sales and other metrics
 19 that they could imply, such as cash flow.
 20 Q. And if I recall correctly, you
 21 testified earlier that there were other
 22 employees at Actavis who were incentivized based
 23 on product sales; is that correct?
 24 MS. ZOLNER: Objection to form.

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1 MS. MAHONEY: Objection.
 2 THE WITNESS: I'm not
 3 specifically aware of other people's
 4 compensation. I'm aware that the bonus
 5 program is in place for most employees
 6 of the company.
 7 (Document marked for
 8 identification as Myers Deposition
 9 Exhibit No. 13.)
 10 BY MR. MELAMED:
 11 Q. I'm handing you what's been
 12 marked as Exhibit 13.
 13 Exhibit 13 is a spreadsheet, it's
 14 all at one Bates number, the printout is two
 15 pages. The Bates number is
 16 Allergan_MDL_01211800. And the title of the
 17 spreadsheet is "2011 Budget Launches."
 18 Do you see that?
 19 A. Yes.
 20 Q. Do you recognize this document?
 21 A. Yes.
 22 Q. What is this document? What is
 23 it describing?
 24 MS. MAHONEY: Objection.

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1 THE WITNESS: This is a
 2 spreadsheet for products that we've
 3 anticipated to launch in the year of
 4 2011, potential launches.
 5 BY MR. MELAMED:
 6 Q. And I just want to go through a
 7 couple of these to make sure I understand what
 8 the -- what each column stands for, okay?
 9 A. Okay.
 10 Q. So if you could look, do you see
 11 under the "Product" about -- or not about,
 12 exactly five rows down it says "Oxymorphone."
 13 Do you see that?
 14 A. Yes.
 15 Q. So using that as an example, the
 16 label states Actavis -- under the column titled
 17 "Label" it states "Actavis Elizabeth," correct?
 18 A. Yes.
 19 Q. What does "label" mean in this
 20 context?
 21 A. I believe Actavis was a
 22 conglomeration of many different LLCs, and I
 23 believe that it refers back to the division that
 24 had the original development of the drug, so

1 maybe the division that filed the ANDA.
 2 Q. Okay. And then the next column
 3 is labeled "Product," and for this same row
 4 we're talking about, it says "Oxymorphone,"
 5 correct?
 6 A. Yes, sir.
 7 Q. And that's the name of the
 8 molecule?
 9 A. Yes, the molecule.
 10 Q. The "Dosage" column here says "ER
 11 tabs."
 12 Do you see that?
 13 A. Yes.
 14 Q. Is that -- does that stand for
 15 extended-relief tablets?
 16 A. Extended-release tablets, yes.
 17 Q. Extended-release tablets. Thank
 18 you for correcting me.
 19 And so dosage refers to the
 20 manner by which the molecule is ingested?
 21 MS. MAHONEY: Objection.
 22 THE WITNESS: Yes.
 23 BY MR. MELAMED:
 24 Q. Brand -- the column "Brand

1 (Company)" here for oxymorphone states "Opana ER
 2 (Endo)," correct?
 3 A. Yes.
 4 Q. So Opana ER is the name of the
 5 brand opioid -- I'm sorry -- the brand
 6 oxymorphone on the market, correct?
 7 A. Yes.
 8 Q. And Endo is the company that
 9 sells Opana ER at this point in time, correct?
 10 A. I believe so, yes.
 11 Q. And, in general, that applies to
 12 each of these -- each of the branded companies
 13 listed in this column. The idea is that it
 14 identifies the company and the brand name of the
 15 molecule that Actavis anticipates launching in
 16 2011; is that correct?
 17 A. Yes.
 18 Q. The "Strengths" for the
 19 oxymorphone row indicate 7.5 milligrams and
 20 15 milligrams, correct?
 21 A. Yes.
 22 Q. And that's the strengths at which
 23 Actavis anticipates introducing the molecule in
 24 2011; is that right?

1 A. Yes.
 2 Q. The next column is titled "MAT
 3 June 2010 IMS sales US (\$MM)."
 4 Can you tell me what MAT stands
 5 for?
 6 A. Moving annual total.
 7 Q. So moving annual total as of
 8 June 2010, and what does "IMS sales US" refer
 9 to?
 10 A. That means sales -- estimated
 11 sales in the United States based on IMS data.
 12 Q. And can you explain what the
 13 moving annual total --
 14 A. Yes.
 15 Q. -- refers to here?
 16 A. Yes. So moving annual total in
 17 this regard being June 2010 would mean the sales
 18 figures from July 2010 through June 2010.
 19 Q. Okay. And so here for the
 20 oxymorphone molecule it's listed as "\$15," and
 21 that means \$15 million, correct?
 22 A. Yes.
 23 Q. Where did -- and withdraw that.
 24 The information in the column

1 we're discussing, "MAT June 2010 IMS Sales US"
 2 comes from IMS; is that right?
 3 A. Yes.
 4 Q. The next column is "2011 Budget
 5 Approval."
 6 Do you see that?
 7 A. Yes.
 8 Q. And then for oxymorphone it says
 9 "July-11."
 10 A. Mm-hmm.
 11 Q. Can you explain what that means,
 12 please?
 13 A. I believe it means that's when
 14 we're expected to launch or that's where our
 15 expected launch is in the 2011 budget.
 16 Q. Okay. So in the 2011 budget it
 17 reflects an anticipated launch of the generic
 18 oxymorphone pursuant to the other specifics in
 19 this row in July; is that right?
 20 A. Yes.
 21 Q. "Target Approval (Best Case),"
 22 can you tell me what target approval means?
 23 A. The date that we assume that the
 24 product will be able to launch from legal

1 standpoint and approval standpoint in the best
 2 case of that scenario, the earliest it would
 3 launch.
 4 Q. And from whom is the approval
 5 being targeted for that date?
 6 MS. MAHONEY: Objection.
 7 THE WITNESS: Can you explain
 8 that a little bit further.
 9 BY MR. MELAMED:
 10 Q. Sure. Target approval by who?
 11 Who is the approving entity referenced in this
 12 column, if you know?
 13 MS. MAHONEY: Objection.
 14 MS. ZOLNER: Objection.
 15 THE WITNESS: It could be a
 16 number of different factors. It could
 17 be based on anticipated FDA approval or
 18 other legal hurdles that need to be
 19 cleared.
 20 BY MR. MELAMED:
 21 Q. What other kinds of legal hurdles
 22 are you aware of?
 23 MS. MAHONEY: Objection.
 24 THE WITNESS: Exclusivity, patent

1 rights, there could be a number of
 2 things involved.
 3 BY MR. MELAMED:
 4 Q. The next column is MFG Country
 5 and Site.
 6 Does MFG stand for manufacturing?
 7 THE WITNESS: Yes.
 8 MS. MAHONEY: Objection.
 9 BY MR. MELAMED:
 10 Q. And so here in oxymorphone the
 11 manufacturing country is United States, correct?
 12 A. Yes.
 13 Q. And "ELZ" is listed as the site
 14 for oxymorphone, correct?
 15 A. Yes.
 16 Q. And that stands for Elizabeth?
 17 A. Yes.
 18 Q. "Competitors" in the oxymorphone
 19 row states "approval received on 7.5 mg and
 20 15 mg. TA on other strengths. Brand is," and
 21 then appears to be fragment.
 22 Can you describe -- do you
 23 understand who received approval on 7.5 and
 24 15-milligram strengths?

1 A. From the way it's written, I
 2 believe that the company, Actavis, received
 3 approval on those two strengths.
 4 Q. Do you know what TA stands for in
 5 the next clause?
 6 A. Yes.
 7 Q. What is TA?
 8 A. Tentative approval.
 9 Q. Okay. And then there's a
 10 "Comments" column. In oxymorphone it says "PIV,
 11 filed June-07, May-08."
 12 Do you know what PIV stands for
 13 in that row?
 14 A. I believe so.
 15 Q. What is that?
 16 A. Paragraph IV.
 17 Q. And what does paragraph IV refer
 18 to, if you know?
 19 A. I believe it is a type of filing
 20 with the FDA. I'm not entirely sure exactly all
 21 of the things that go into it.
 22 Q. And then there is a "Market Share
 23 Target (2011 budget)" column.
 24 Do you see that?

1 A. Yes.
 2 Q. Can you explain what that column
 3 is referencing, market -- what is the market?
 4 A. The market is all of the units
 5 that are currently being sold by the brand
 6 and/or any generics on the market for that -- at
 7 that time and what share of business we predict
 8 we can get, based on the number of competitors
 9 and things like that.
 10 Q. Now, is that market limited to
 11 the United States?
 12 A. Yes, in this instance.
 13 Q. Excuse me. Thank you.
 14 And so for oxymorphone the target
 15 market share for the 7.5 and 15-milligram
 16 generic oxymorphone is 60% of the US market for
 17 those strengths of that molecule, correct?
 18 A. Yes.
 19 Q. Thank you.
 20 Turn to the second page, couple
 21 more details I wanted to ask you about.
 22 You see the row where the product
 23 listed is buprenorphine?
 24 A. I do.

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1 Q. I realize I forgot to ask you
2 about one of the columns on the prior page. I'm
3 going to ask you about it in context of
4 buprenorphine.
5 A. Okay.
6 Q. There's a "2011 Budget Sales" and
7 then "\$000)."
8 Do you see that column?
9 A. Yes.
10 Q. And for buprenorphine it is --
11 the number written in the cell is \$6,879,
12 correct?
13 A. Yes.
14 Q. That reflects, first of all, the
15 number because of the \$000 indicates that that
16 number reflects \$6,879,000, correct?
17 A. Yes.
18 Q. Okay. What does that number
19 refer to? It says "2011 Budget Sales."
20 What does 2011 budget sales mean?
21 A. I believe that means that is the
22 number we predicted we would sell in that
23 calendar year.
24 Q. And is that -- that is a January

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1 to December calendar year?
2 A. It's based on our fiscal year,
3 which I believe at that time was January through
4 December.
5 Q. And in the "Comments" for
6 buprenorphine, it says -- the first comment is
7 "filed September of 2008."
8 Do you see that?
9 A. Yes.
10 Q. Do you understand what was filed
11 in September of 2008?
12 A. I would infer that to mean when
13 we filed our ANDA for approval with the FDA.
14 Q. And then the next comment is
15 "Awaiting RiskMap/REMS approval."
16 Do you see that?
17 A. Yes.
18 Q. Do you understand what is
19 referred to by "RiskMap/REMS"?
20 A. Essentially, yes.
21 Q. What is that or those -- first of
22 all, is it one thing or two things?
23 A. I'm not sure.
24 Q. Okay. Can you describe to me

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1 what you understand that reference to mean?
2 A. My understanding is specific
3 drugs have a REMS program associated with them.
4 A REMS program is -- I don't remember the exact
5 initials, it has something to do with risk
6 mitigation strategies.
7 Oftentimes it's educating doctors
8 on how this product is used. It could include
9 them to take special courses. It could include
10 them to sign up for awareness of the product.
11 It's a safety measure -- an extra safety measure
12 that's added to the approval of the drug.
13 Participation is not optional. It is mandated.
14 Q. And do you know from whom Actavis
15 was awaiting approval for its RiskMap/REMS on
16 buprenorphine?
17 A. I'm not exactly sure of who the
18 approving body is. I'm sure it has something to
19 do with the FDA or in conjunction with the FDA.
20 Q. So your understanding is it's
21 being subject to approval by an external body
22 from Actavis?
23 A. From Actavis, yes.
24 Q. The next line concerns the

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1 molecule Morphine ER.
2 Do you see that?
3 A. I do.
4 Q. And that was a generic of the
5 brand name Kadian that Actavis also sold,
6 correct?
7 A. Yes.
8 Q. Under "Target Approval" it states
9 "ready."
10 Do you see that?
11 A. Yes.
12 Q. Does that mean that the generic
13 was already approved for sale and distribution
14 by the FDA?
15 A. Not necessarily.
16 Q. What do you understand it to
17 mean?
18 A. I understand this to mean that we
19 owned the ANDA for Kadian; therefore, we do not
20 need a special approval for generic.
21 Q. In the "Comments" field, under
22 the -- in the row affiliated with Morphine ER,
23 comments say "product ready at UPS."
24 Do you see that?

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<p>1 A. Yes.</p> <p>2 Q. What do you understand that to</p> <p>3 mean?</p> <p>4 MS. MAHONEY: Objection.</p> <p>5 THE WITNESS: I believe that</p> <p>6 product had been produced in a generic</p> <p>7 label and was ready at our warehouse</p> <p>8 partner at that time was UPS. They were</p> <p>9 managing our logistics.</p> <p>10 BY MR. MELAMED:</p> <p>11 Q. If you look at the oxycodone APAP</p> <p>12 row, do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. And that was the generic version</p> <p>15 of Percocet, correct?</p> <p>16 A. I believe so.</p> <p>17 Q. That's what it indicates on the</p> <p>18 chart, right?</p> <p>19 A. Yes.</p> <p>20 Q. If you look at the comments after</p> <p>21 the filed date, it says not launching</p> <p>22 5 milligrams/325 milligrams?</p> <p>23 A. Yes.</p> <p>24 Q. Do you underst -- do you have any</p>	<p>1 understanding why it was not launching</p> <p>2 5 milligrams/325 milligrams?</p> <p>3 MS. MAHONEY: Objection.</p> <p>4 THE WITNESS: No.</p> <p>5 BY MR. MELAMED:</p> <p>6 Q. Do you understand what is meant</p> <p>7 by the next clause, which says not getting</p> <p>8 approval on 7.5/500 and 10/625 mg per FDA?</p> <p>9 A. I understand what it means by</p> <p>10 that reading. I don't understand the background</p> <p>11 on why it was not approved.</p> <p>12 Q. What does 7.5/500 mean to you?</p> <p>13 A. The strength of the product in</p> <p>14 both molecules.</p> <p>15 Q. So 7.5 milligrams of oxycodone?</p> <p>16 A. I believe that may be the case.</p> <p>17 Q. And 500 milligrams of APAP?</p> <p>18 A. Yes.</p> <p>19 Q. And what does APAP stand for?</p> <p>20 A. Acetaminophen.</p> <p>21 Q. All right. You can put that</p> <p>22 aside.</p> <p>23 (Document marked for</p> <p>24 identification as Myers Deposition</p>
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<p>1 Exhibit No. 14.)</p> <p>2 BY MR. MELAMED:</p> <p>3 Q. I'm handing you what's been</p> <p>4 marked Exhibit 14.</p> <p>5 Exhibit 14 is an e-mail and</p> <p>6 several attachments thereto. The e-mail is from</p> <p>7 Dave Myers to a group of recipients on</p> <p>8 June 20th, 2011. The subject is Oxymorphone</p> <p>9 Launch Preparation. Bates range of the document</p> <p>10 is ALLERGAN_MDL_03684488 to 4492, and then there</p> <p>11 is an addended document that does not currently</p> <p>12 have a Bates number on it. It's actually</p> <p>13 interspersed throughout. There's HDMA documents</p> <p>14 that are in the production that do not appear to</p> <p>15 have Bates numbers.</p> <p>16 MR. MELAMED: I'll represent to</p> <p>17 counsel that this is produced as a</p> <p>18 unitary doc. I'm not sure why the Bates</p> <p>19 numbers are not on here.</p> <p>20 MS. MAHONEY: I believe it's</p> <p>21 because they were produced natively. I</p> <p>22 see a reference to that, but I -- here's</p> <p>23 the 92.</p> <p>24 MR. MELAMED: So there -- so it</p>	<p>1 appears that the Bates range does</p> <p>2 encompass the documents, it's just</p> <p>3 not -- the Bates number is not reflected</p> <p>4 on several of the individual attachments</p> <p>5 that are here. I'm happy to talk to you</p> <p>6 about that after if there's any</p> <p>7 confusion.</p> <p>8 MS. MAHONEY: Again, I think it's</p> <p>9 because they were produced natively, so</p> <p>10 I think we're on the same physical page,</p> <p>11 not even metaphorically.</p> <p>12 BY MR. MELAMED:</p> <p>13 Q. All right. Do you recognize this</p> <p>14 document?</p> <p>15 A. No.</p> <p>16 Q. Do you have any reason to believe</p> <p>17 that you did not send the e-mail and the</p> <p>18 attachments?</p> <p>19 A. No, I believe I did -- was the</p> <p>20 author.</p> <p>21 Q. And this concerned preparation</p> <p>22 for launching generic oxymorphone, correct?</p> <p>23 MS. MAHONEY: Objection.</p> <p>24 THE WITNESS: Yes.</p>

1 BY MR. MELAMED:
2 Q. And that's referenced in the
3 subject line, right?
4 A. Yes.
5 Q. And in your e-mail you say, "I
6 have attached the launch preparation documents
7 that we will be discussing at this morning's
8 meeting."
9 Do you see that?
10 A. Yes, sir.
11 Q. Do you recall that discussion
12 that you reference in the e-mail?
13 A. I don't recall the meeting.
14 Q. Was it customary to have a
15 meeting to launch a generic drug at Actavis?
16 MS. MAHONEY: Objection.
17 THE WITNESS: Yes.
18 BY MR. MELAMED:
19 Q. Was it customary for you to be
20 involved in product launch meetings at Actavis?
21 MS. ZOLNER: Objection.
22 MS. MAHONEY: Objection.
23 THE WITNESS: In some cases.
24 BY MR. MELAMED:

1 Q. And the intent was that it not be
2 shared outside of Actavis, correct?
3 A. Yes.
4 Q. So I want to talk -- do you see
5 the section labeled "Overall Market (all
6 strengths)"?
7 A. Yes, sir.
8 Q. The first line says "Actual 12
9 Months Ending March 2011 Total Market Units
10 (tablets)," and then to the right of that it
11 says "49.8 MM."
12 Do you see that?
13 A. Yes.
14 Q. MM stands for million, correct?
15 A. Yes.
16 Q. So that's 49.8 million Opana
17 tablets --
18 A. Yes.
19 Q. Actually, let me pull back.
20 What does that 49.8 million
21 describe?
22 A. I believe it describes the total
23 market of Opana units being sold.
24 Q. And it describes that market in

1 Q. Do you recall the general
2 discussion that occurred during such meetings?
3 MS. MAHONEY: Objection.
4 THE WITNESS: Typically, during a
5 launch meeting we would provide certain
6 members of the commercial team with a
7 background on the product and any other
8 pertinent information. There are
9 documents attached which give background
10 on the product.
11 BY MR. MELAMED:
12 Q. Okay. I want to talk primarily
13 about the first attached document, which runs
14 from the Bates number 4489 to 4490. It says
15 "New Product Fact Sheet: Oxymorphone HCl
16 Extended-Release Tablets 7.5 & 15 mg."
17 Do you recognize this document?
18 A. I do.
19 Q. Did you prepare this document?
20 A. I believe I did.
21 Q. And it's labeled "For Actavis
22 Internal Use Only."
23 Do you see that?
24 A. Yes.

1 terms of the number of individual tablets of
2 Opana?
3 A. Yes.
4 Q. And the next line says,
5 "Projected 2011 Total Market Extended Units
6 (tablet)."
7 Do you see that?
8 A. Yes.
9 Q. Do you know what's meant by
10 extended units?
11 A. This is confusing.
12 Q. What is confusing?
13 A. I believe there's an error in the
14 document.
15 Q. Okay. Can you explain what you
16 believe the error to be, please.
17 A. In the first bullet that we just
18 discussed, it says "Total Market Units (tablets)
19 49.8 million." In the second it says Total
20 Market Extended Units (tablets) -- let me
21 collect my thoughts.
22 Q. Mm-hmm.
23 A. I'm unsure how to interpret this.
24 Q. Okay. Is your confusion caused

<p style="text-align: right;">Page 209</p> <p>1 by the jump in number between 49.8 million in</p> <p>2 the first line and 310 million in the second</p> <p>3 line?</p> <p>4 A. Yes.</p> <p>5 Q. Because that seems like a rather</p> <p>6 large jump if you're comparing the number of</p> <p>7 tablets sold in actual 12 months ended</p> <p>8 March 2011 for the projected 2011 calendar year</p> <p>9 sales; is that right?</p> <p>10 MS. ZOLNER: Objection, form.</p> <p>11 MS. MAHONEY: Objection.</p> <p>12 THE WITNESS: What I'm thinking</p> <p>13 may be the issue is in the first line</p> <p>14 where it says total market units and</p> <p>15 then tablets is in parentheses at</p> <p>16 49.8 million, and then it clearly states</p> <p>17 that extended units tablets -- in the</p> <p>18 industry a unit would be a sales unit,</p> <p>19 so a bottle of a specific number of --</p> <p>20 that's commonly sold. An extended unit</p> <p>21 would be a tablet, down to the lowest</p> <p>22 form. In this case it would be tablets.</p> <p>23 BY MR. MELAMED:</p> <p>24 Q. So is it -- given that</p>	<p style="text-align: right;">Page 210</p> <p>1 explanation, is it your understanding that the</p> <p>2 first line refers to -- when it talks about</p> <p>3 total market units, it's referring to the number</p> <p>4 of bottles sold?</p> <p>5 MS. MAHONEY: Objection.</p> <p>6 THE WITNESS: I can't be sure.</p> <p>7 I'd have to look at the data from that</p> <p>8 time.</p> <p>9 BY MR. MELAMED:</p> <p>10 Q. The next line says, "Actual 12</p> <p>11 Months Ending December 2010 Total Market Sales</p> <p>12 (IMS)."</p> <p>13 A. Yes.</p> <p>14 Q. And then the number that's given</p> <p>15 is \$318 million, correct?</p> <p>16 A. Yes.</p> <p>17 Q. Can you explain what that</p> <p>18 \$318 million reflects?</p> <p>19 A. Let me read the whole statement</p> <p>20 here.</p> <p>21 (Witness reviews document.)</p> <p>22 Yes, the 318 million refers to</p> <p>23 the estimated amount of Opana sales for the 12</p> <p>24 months up to December 2010.</p>
<p style="text-align: right;">Page 211</p> <p>1 Q. And the reference to IMS is a</p> <p>2 reference to where that information came from?</p> <p>3 A. Yes.</p> <p>4 Q. And then there's an italicized</p> <p>5 line at the bottom of this section that says 7.5</p> <p>6 and 15-milligram strengths had sales of</p> <p>7 \$22 million, but brand discontinued these</p> <p>8 strengths in 03/2011.</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. Do you recall why Opana was</p> <p>12 discontinued in the 7.5 and 15-milligram</p> <p>13 strengths in March of 2011?</p> <p>14 MS. MAHONEY: Objection.</p> <p>15 THE WITNESS: I was not privy to</p> <p>16 Opana's strategy, Endo's strategy with</p> <p>17 Opana, I should say.</p> <p>18 BY MR. MELAMED:</p> <p>19 Q. So you don't understand one --</p> <p>20 you don't have -- do you have any understanding</p> <p>21 of why they were withdrawing?</p> <p>22 A. No.</p> <p>23 Q. Okay. The next section you have</p> <p>24 "Product." In the second bullet point says</p>	<p style="text-align: right;">Page 212</p> <p>1 "Market volume has increased by 28%; dollar</p> <p>2 volume increased by 41% (year-over-year)."</p> <p>3 What do you mean by market volume</p> <p>4 has increased by 28%?</p> <p>5 A. The number of extended units has</p> <p>6 increased.</p> <p>7 Q. And remind me, by extended units</p> <p>8 you mean the number of individual Opana pills?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And is that a comparison</p> <p>11 between two years when it says year-over-year?</p> <p>12 A. Yes.</p> <p>13 Q. Do you know which two years you</p> <p>14 are comparing at this point?</p> <p>15 A. I believe that it would be -- in</p> <p>16 year-over-year it would be to the data that I am</p> <p>17 saying -- hold on just one second. Let me be</p> <p>18 sure.</p> <p>19 (Witness reviews document.)</p> <p>20 The latest data I probably would</p> <p>21 have had at that point would have been</p> <p>22 March 2011, and so it was probably</p> <p>23 year-over-year that rolling annual total 2010</p> <p>24 through 2011.</p>

Page 213	Page 214
<p>1 Q. So it would -- the 28% market 2 volume increase you're talking about would 3 compare April 2010 to March 2011 versus 4 April 2010 -- I'm sorry -- April 2009 to 5 March 2010; is that correct?</p> <p>6 A. Yes, I believe so.</p> <p>7 Q. Okay. And then you say dollar 8 volume increased by 41% year-over-year, do you 9 believe that comparison is for the same two time 10 periods we just discussed?</p> <p>11 A. Yes.</p> <p>12 Q. And what do you mean by dollar 13 volume?</p> <p>14 A. It would imply that Opana had -- 15 Endo had increased the price of Opana.</p> <p>16 Q. By 41%?</p> <p>17 MS. MAHONEY: Objection.</p> <p>18 THE WITNESS: No.</p> <p>19 BY MR. MELAMED:</p> <p>20 Q. How did you determine that Endo 21 had increased the price of Opana?</p> <p>22 MS. ZOLNER: Objection, form.</p> <p>23 THE WITNESS: We used IMS dollar 24 volume, compared it to IMS unit sales</p>	<p>1 volume. If the dollar volume increased 2 to 41%, by 41% and units only increased 3 by 28%, that would mean the only 4 difference could be an increase in 5 price. That's how we were deducing 6 that.</p> <p>7 BY MR. MELAMED:</p> <p>8 Q. And by -- just a simple question, 9 by dollar volume, are you referring to the 10 dollar sales?</p> <p>11 A. Yes, but it's -- it's IMS's 12 predicted sales. IMS does not really know 13 contract prices, and there may be rebates 14 involved that are not taken into account. 15 Actual performance may be less.</p> <p>16 Q. Sorry to cut you off. 17 This is IMS's estimate --</p> <p>18 A. Yes.</p> <p>19 Q. -- of the sales compared over the 20 two years we talked about earlier?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. In the next bullet 23 point it says, "trade channel," and it states 24 that 49% of the volume is via drug chains, 34%</p>
Page 215	Page 216
<p>1 via independents, 11% via food stores. LTC and 2 mail order comprise less than 5%.</p> <p>3 Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. Do you know where you got that 6 data?</p> <p>7 A. That would also be from IMS.</p> <p>8 Q. And then the final bullet point 9 in that section states that "Endo discontinued 10 the 7.5 mg and 15 mg strengths in March 2011. 11 This will present marketing challenges to 12 Actavis."</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. What is the nature of the 16 marketing challenges that Endo's discontinuation 17 of those two strengths will present to Actavis?</p> <p>18 A. Doctors may have stopped writing 19 prescriptions for those strengths because they 20 were no longer available on the market.</p> <p>21 Q. If you look at the next page 22 ending 490, the top section says Actavis Market 23 Target Share: 50%.</p> <p>24 MS. MAHONEY: Objection, misread.</p>	<p>1 BY MR. MELAMED:</p> <p>2 Q. I'll reread it, just so the 3 record is clear. The document actually says 4 "Actavis Market Share Target: 50%."</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. I was not trying to confuse you. 8 I misread the document.</p> <p>9 Is it correct to say that Actavis 10 was targeting a 50% market share for each of the 11 two strengths of oxycodone it was introducing?</p> <p>12 MS. MAHONEY: Objection.</p> <p>13 THE WITNESS: I believe that to 14 possibly be true, yes.</p> <p>15 BY MR. MELAMED:</p> <p>16 Q. Is there another explanation that 17 you have for the 50% market share target?</p> <p>18 MS. MAHONEY: Objection.</p> <p>19 THE WITNESS: No.</p> <p>20 BY MR. MELAMED:</p> <p>21 Q. And, again, that market is the 22 total United States market; is that true?</p> <p>23 A. Yes.</p> <p>24 Q. On the bottom section of page 2</p>

<p style="text-align: right;">Page 217</p> <p>1 of this document, which again at 4490, it talks 2 about Marketing Promotional Plans, and you start 3 by writing, "Because Endo discontinued the 7.5 4 and 15 mg strengths in March 2011 Actavis will 5 be implementing a more aggressive promotional 6 campaign for this launch." 7 Do you see that? 8 A. Yes, sir. 9 Q. Does that reflect your -- let me 10 withdraw that. 11 Does the reason for the more 12 aggressive promotional campaign for this launch 13 relate to the answer you provided before, that 14 doctors may have stopped writing prescriptions 15 at this strength because the drug had no longer 16 been available? 17 MS. MAHONEY: Objection. 18 THE WITNESS: Yes. 19 BY MR. MELAMED: 20 Q. And is the goal of the 21 promotional campaign -- let me withdraw that. 22 What was the goal of the 23 marketing promotional plan for oxymorphone in 24 7.5 and 15-milligram strengths --</p>	<p style="text-align: right;">Page 218</p> <p>1 MS. ZOLNER: Objection. 2 BY MR. MELAMED: 3 Q. -- to be introduced by Actavis? 4 MS. ZOLNER: Objection, 5 foundation. 6 THE WITNESS: The goal of the 7 marketing plan was to make pharmacists 8 and doctors aware that these two 9 strengths were once again available for 10 those patients they felt they were most 11 appropriate for. 12 BY MR. MELAMED: 13 Q. And how do you know that that was 14 the goal of the marketing plan? 15 A. Because I was part of creating 16 the marketing plan. 17 Q. And so the four bullet points 18 list different aspects of the marketing 19 promotional plan that Actavis plans to 20 implement; is that true? 21 MS. MAHONEY: Objection. 22 THE WITNESS: They were proposed 23 action plans, yes. 24 BY MR. MELAMED:</p>
<p style="text-align: right;">Page 219</p> <p>1 Q. Did you propose them? 2 A. I wrote them on this document. I 3 don't remember who conceived of each individual 4 component. 5 Q. Okay. The first bullet is "A two 6 wave direct-mail campaign to the top 10,000 7 prescribing doctors." 8 What were those doctors, the top 9 10,000 -- sorry, let me withdraw that. 10 Was there a particular drug that 11 these doctors were the top 10,000 prescribing 12 doctors of? 13 MS. MAHONEY: Objection. 14 MS. ZOLNER: Objection. 15 THE WITNESS: Yes. 16 BY MR. MELAMED: 17 Q. What was that drug? 18 A. Opana ER. 19 Q. Was that list of the top 10,000 20 doctors limited by any particular strength of 21 Opana ER? 22 A. Not that I recall. 23 Q. From where did you get the 24 information about who were the top 10,000</p>	<p style="text-align: right;">Page 220</p> <p>1 prescribing doctors of Opana ER? 2 A. I believe we purchased a mailing 3 list from IMS data. 4 Q. Is your belief that IMS data 5 provided you the list of the top 10,000 6 prescribing doctors of Opana ER? 7 A. I believe so. 8 Q. Do you know whether IMS data 9 maintained records of other drugs that doctors 10 prescribed? 11 A. I imagine that they do based on 12 the nature of their business, but I have no 13 direct knowledge of how they run their business. 14 Q. Were you involved in the decision 15 to purchase that information from IMS? 16 MS. MAHONEY: Objection. 17 MS. ZOLNER: Objection, form. 18 THE WITNESS: I was involved in 19 the decision and development of the 20 campaign. I don't remember who decided 21 to buy the data from IMS. 22 BY MR. MELAMED: 23 Q. Actavis did buy the data 24 eventually from IMS concerning the top 10,000</p>

<p style="text-align: right;">Page 221</p> <p>1 prescribing doctors of Opana, correct?</p> <p>2 A. I believe so.</p> <p>3 Q. Do you recall how much that cost</p> <p>4 Actavis?</p> <p>5 A. No, I'm sorry, I don't.</p> <p>6 Q. Do you have any ballpark figure?</p> <p>7 MS. MAHONEY: Objection.</p> <p>8 THE WITNESS: No, I don't.</p> <p>9 BY MR. MELAMED:</p> <p>10 Q. The second bullet point talks</p> <p>11 about "Direct Contact."</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. And the plan was to utilize the</p> <p>15 Kadian sales force to deliver sell sheets to</p> <p>16 known pain doctors they visit in their</p> <p>17 day-to-day promotion of Kadian.</p> <p>18 Do you see that?</p> <p>19 MS. MAHONEY: Objection.</p> <p>20 THE WITNESS: I do.</p> <p>21 BY MR. MELAMED:</p> <p>22 Q. Why was oxymorphone -- let me</p> <p>23 withdraw that.</p> <p>24 Why was the plan to use the</p>	<p style="text-align: right;">Page 222</p> <p>1 Kadian sales force to deliver sell sheets to</p> <p>2 known pain doctors they visited in their</p> <p>3 day-to-day promotion of Kadian?</p> <p>4 MS. MAHONEY: Objection.</p> <p>5 MS. ZOLNER: Objection to form,</p> <p>6 objection, foundation.</p> <p>7 THE WITNESS: We thought that</p> <p>8 would be another way to bring awareness</p> <p>9 of availability of oxymorphone 7.5 mg</p> <p>10 and 15 mg strengths to doctors who</p> <p>11 specialized in pain management.</p> <p>12 BY MR. MELAMED:</p> <p>13 Q. Is the reason that doctors -- if</p> <p>14 you know, is the reason that doctors who</p> <p>15 specialized in pain management were targeted for</p> <p>16 providing this information because they were the</p> <p>17 most likely to prescribe the drug being</p> <p>18 promoted?</p> <p>19 MS. ZOLNER: Objection to form.</p> <p>20 MS. MAHONEY: Objection.</p> <p>21 THE WITNESS: They could be among</p> <p>22 the people that would be likely to</p> <p>23 prescribe, but additional people --</p> <p>24 additional doctors in specialties like</p>
<p style="text-align: right;">Page 223</p> <p>1 oncology and such might also prescribe,</p> <p>2 so they were not the only ones who would</p> <p>3 be likely.</p> <p>4 BY MR. MELAMED:</p> <p>5 Q. They were among the group that</p> <p>6 was likely to prescribe Opana; is that correct?</p> <p>7 MS. MAHONEY: Objection.</p> <p>8 THE WITNESS: I believe so.</p> <p>9 BY MR. MELAMED:</p> <p>10 Q. Similar, why was the decision</p> <p>11 made to target the direct mail campaign to the</p> <p>12 top ten prescribing doctors of Opana ER?</p> <p>13 MS. MAHONEY: Objection.</p> <p>14 BY MR. MELAMED:</p> <p>15 Q. I'm sorry, I said top ten. Order</p> <p>16 of magnitude a few or two off. I'll restate the</p> <p>17 question.</p> <p>18 Do you know why the decision was</p> <p>19 made to target the direct mail campaign to the</p> <p>20 top 10,000 prescribing doctors of Opana ER?</p> <p>21 A. We -- I believe that many, many,</p> <p>22 many multitudes of doctors prescribed Opana ER,</p> <p>23 and we wanted to reach the people who were most</p> <p>24 likely to have history with the drug and have</p>	<p style="text-align: right;">Page 224</p> <p>1 patients who have had success that it had been</p> <p>2 beneficial for in managing their pain.</p> <p>3 Q. Next bullet point mentions</p> <p>4 "Journal advertising to two segments of the</p> <p>5 industry."</p> <p>6 Do you see that?</p> <p>7 A. I do.</p> <p>8 Q. The first one is "Practical Pain</p> <p>9 Management - focused on pain specialists."</p> <p>10 Do you know why journal</p> <p>11 advertising in Practical Pain Management was</p> <p>12 contemplated for the promotional materials for</p> <p>13 Opana -- for oxymorphone?</p> <p>14 A. I believe based on the indication</p> <p>15 of oxymorphone, that this would help support our</p> <p>16 awareness campaign to let people who would read</p> <p>17 that journal know that it was available.</p> <p>18 Q. And then the second sub-bullet</p> <p>19 point is "Pharmacy Times - focused on</p> <p>20 pharmacists/pharmacy buyers."</p> <p>21 Do you know why the decision to</p> <p>22 advertise introduction of generic oxymorphone in</p> <p>23 Pharmacy Times was made?</p> <p>24 MS. MAHONEY: Objection.</p>

1 THE WITNESS: Yes.
 2 BY MR. MELAMED:
 3 Q. Why was that?
 4 A. To bring awareness also to
 5 pharmacists that the product was available and
 6 to pharmaceutical buyers that they could
 7 purchase this for their pharmacy.
 8 Q. Do you know whether you followed
 9 up on each of these four bullet points in the
 10 marketing promotional plans?
 11 A. I think --
 12 Q. Go ahead. I'm sorry.
 13 MS. ZOLNER: Objection, form.
 14 THE WITNESS: I believe that we
 15 did.
 16 BY MR. MELAMED:
 17 Q. And by follow up I mean did you
 18 implement each of the plans discussed in these
 19 four bullet points?
 20 MS. ZOLNER: Objection, form.
 21 THE WITNESS: I believe that we
 22 did. There may be some variance in the
 23 journals that we used.
 24 MR. MELAMED: You can put that

1 aside.
 2 (Document marked for
 3 identification as Myers Deposition
 4 Exhibit No. 15.)
 5 BY MR. MELAMED:
 6 Q. I'm going to hand you what's been
 7 marked Myers Exhibit 15.
 8 It's a voluminous document. I'll
 9 represent to you that most of the volume is a
 10 single spreadsheet, and we're not going to go
 11 through it row by row. Obviously, you should
 12 flip through it and familiarize yourself, but
 13 I'm hopeful that you will not need to read the
 14 entirety of the document before we discuss it.
 15 A. I can see why you would be
 16 hopeful.
 17 Q. Exhibit 15 is an e-mail, starting
 18 at ACTAVIS1130369 from David Myers to Joanne
 19 Terzides, cc'ing several individuals, July 7th,
 20 2011, e-mail continues through ACTAVIS1130374.
 21 There are several pages of what appear to be
 22 signature gifs and then an extensive spreadsheet
 23 starting -- which all shares the same Bates
 24 number ACTAVIS1130377. And then at the end of

1 the spreadsheet, a communication from PDQ
 2 Communications to David Myers, two
 3 communications, both dated July 1st, 2011.
 4 Are you -- do you recall this
 5 document?
 6 A. No.
 7 Q. Do you have any reason to believe
 8 that you did not send the e-mail and the
 9 attachments thereto as reflected in this
 10 document?
 11 A. No, I see that I was the author.
 12 Q. And this was sent pursuant to
 13 your professional duties at Actavis; is that
 14 correct?
 15 MS. MAHONEY: Objection.
 16 THE WITNESS: Yes, sir.
 17 BY MR. MELAMED:
 18 Q. It wasn't a personal e-mail to
 19 Ms. Terzides?
 20 A. No.
 21 Q. You see the first paragraph that
 22 this refers to a two wave oxycodone direct
 23 e-mail and e-mail program, correct?
 24 A. Yes.

1 Q. And next line says, "I have
 2 attached a spreadsheet that provides the name
 3 and addresses of the top 10,000 prescribing
 4 doctors of Opana ER."
 5 Do you see that?
 6 A. I do.
 7 Q. Do you believe the spreadsheet,
 8 which makes up the vast majority of this
 9 exhibit, reflects what you described as the
 10 spreadsheet providing the names and addresses of
 11 the top 10,000 prescribing doctors of Opana ER?
 12 MS. ZOLNER: Objection, form.
 13 THE WITNESS: I believe it does.
 14 BY MR. MELAMED:
 15 Q. And the end of the first
 16 paragraph you say, "This is the list we would
 17 like to use for our direct mail campaign,"
 18 correct?
 19 A. Yes.
 20 Q. Do you recall the content of the
 21 direct mail campaign that you were discussing
 22 here?
 23 MS. MAHONEY: Objection.
 24 THE WITNESS: I believe I do.

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1 BY MR. MELAMED:
2 Q. What was included in that direct
3 mail campaign?
4 A. There was an advertising printed
5 piece created that included information about
6 the drug being available, the strengths and the
7 sizes, as well as a full list of required
8 warnings, PI, black box warnings, things like
9 that all would have been included.
10 Q. And it references a two wave
11 oxycodone direct mail program?
12 A. Yes.
13 Q. Does that mean there were two sep
14 -- the plan was for there to be two separate --
15 withdraw that.
16 Does that indicate that there was
17 a plan to mail information to these top 10,000
18 prescribing doctors at two separate points in
19 time?
20 MS. MAHONEY: Objection.
21 THE WITNESS: Yes.
22 BY MR. MELAMED:
23 Q. Was there a difference in the
24 content of the information that was going to be

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1 provided to doctors at time one from time two?
2 MS. ZOLNER: Objection, form.
3 THE WITNESS: No, I don't believe
4 so.
5 BY MR. MELAMED:
6 Q. You believe it was the same,
7 precisely the same information that was mailed
8 twice to each recipient?
9 MS. MAHONEY: Objection.
10 THE WITNESS: Yes.
11 BY MR. MELAMED:
12 Q. If you can turn to the first page
13 of the spreadsheet at ACTAVIS1130377. I
14 apologize for the size of the information on
15 this, but, hopefully, you can make it out.
16 A. Yes.
17 Q. And, again, I don't want to go
18 through line by line. I'd like to go through
19 the first line to see if I can understand -- if
20 you understand and tell me what the information
21 in that first line reflects.
22 So, first, if you see at the top
23 before we get to the individual line, it says
24 "Data: March 2011."

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1 Do you see that in very small
2 print right under the header "Opana ER, Full
3 List of Prescribers"?
4 A. Yes.
5 Q. Do you understand what "Data:
6 March 2011" means?
7 A. I assume it to mean that's the
8 date when the information was pulled.
9 Q. And then over to the left, again,
10 before we get into the rows and information,
11 there's one asterisk that says 2010 is
12 Jan-December 2010.
13 A. Okay.
14 Q. Do you have any understanding of
15 what that means?
16 A. No.
17 Q. And then two asterisks, it says
18 YTD is Jan - March -- I'm sorry, Jan-Mar 2011.
19 Do you see that?
20 A. Yes.
21 Q. Do you have any understanding of
22 what that means?
23 A. I assume it means for a partial
24 year.

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1 Q. Where the header says YTD, it's
2 indicating information --
3 A. Year-to-date.
4 Q. And that the year-to-date
5 indicates information from January to March
6 of 2011?
7 A. Yes. I don't see how that's
8 relevant to the document though. I don't...
9 Q. Okay. If you look over at the
10 column headers on the right side, you'll see
11 that there are a series of headers that start
12 with -- we'll start from the first. It says
13 Opana 2010, and then the next immediately
14 adjacent column is Opana year-to-date.
15 A. I see.
16 Q. So is your understanding that
17 those definitions we were just going through at
18 the top of the document refer to what is meant
19 by 2010 and what is meant by YTD?
20 MS. MAHONEY: Objection.
21 THE WITNESS: I believe that
22 based on this conversation. I don't
23 remember recognizing that in the past.
24 BY MR. MELAMED:

1 Q. Did you make -- this data came
2 from IMS, correct?
3 A. I believe so.
4 Q. Did you make the request to IMS
5 for this data?
6 A. I don't know.
7 Q. Did you ever request data from
8 IMS, you being you, David Myers?
9 A. I don't know.
10 Q. Okay. Do you know who you would
11 have talked to at IMS would you have wanted to
12 request information?
13 MS. MAHONEY: Objection.
14 THE WITNESS: No, I didn't
15 have -- I don't remember having contacts
16 directly with -- at IMS.
17 BY MR. MELAMED:
18 Q. All right. Now I'd like to go
19 through some of the information and just use the
20 first row primarily.
21 The first column says "Product
22 Group."
23 Do you see that?
24 A. Yes.

1 doctors who prescribed Opana ER; is that
2 correct?
3 A. I believe that to be true.
4 Q. Okay. The next column says
5 "Target Flag."
6 Do you know what that means?
7 A. No.
8 Q. Do you know why some have a --
9 for instance, the first row is blank under
10 Target Flag, yet the second row and others has a
11 Y under Target Flag?
12 MS. MAHONEY: Objection.
13 THE WITNESS: No, I don't know.
14 BY MR. MELAMED:
15 Q. The next column says "TMS
16 Target."
17 Do you know what TMS stands for?
18 A. No, I do not.
19 Q. Do you know what TMS target
20 means?
21 A. No, I do not.
22 Q. And so you have no understanding
23 of why again there are some who are marked --
24 rows where Y is marked under TMS target and

1 Q. And the product group is Opana
2 ER.
3 Do you see that?
4 A. Yes.
5 Q. And I'll represent to you that
6 each of the rows in this document says "Opana
7 ER."
8 Do you have any understanding of
9 what that product group being defined as Opana
10 ER means?
11 A. I believe it to be people who
12 prescribed Opana ER.
13 Q. So is it your understanding that
14 that was a restriction set on the information
15 given to you?
16 A. Yes.
17 Q. You somehow -- sorry.
18 A. Sorry. I didn't let you finish.
19 Q. That's okay. I think you said
20 yes, and I'll follow up just to make sure I
21 understand, that somebody at Actavis had
22 requested information about the top 10,000
23 prescribing doctors of Opana ER, and the product
24 group was used to limit the information to

1 others where it is blank?
2 MS. MAHONEY: Objection.
3 THE WITNESS: No, I don't know
4 why.
5 BY MR. MELAMED:
6 Q. The next column says "PDRP Flag."
7 A. Yes.
8 Q. Do you know what PDRP stands for?
9 A. No, sir.
10 Q. Do you know what the function of
11 the PDRP flag column is?
12 MS. MAHONEY: Objection.
13 THE WITNESS: No, I do not.
14 BY MR. MELAMED:
15 Q. Do you know whether these columns
16 were provided by IMS when they gave Actavis the
17 data?
18 MS. ZOLNER: Objection, form.
19 THE WITNESS: I assume so, as
20 this appears to be the database we
21 received.
22 BY MR. MELAMED:
23 Q. When you received this
24 information, do you recall the format in which

1 you received it?

2 A. No.

3 Q. Do you recall using it as an

4 electronic document?

5 A. I believe it would have been

6 delivered to us as an electronic document

7 because of its volume.

8 Q. And you believe that -- do you

9 have any understanding of the file format it

10 would have been delivered to you in?

11 MS. MAHONEY: Objection.

12 THE WITNESS: No.

13 BY MR. MELAMED:

14 Q. The next column, we had just

15 discussed PDRP flag, we're moving on. The next

16 one says "ME," and each individual reflected in

17 a row in this chart has an ME number associated.

18 A. Mm-hmm.

19 Q. Do you know what ME means?

20 A. No.

21 Q. The next columns says "Last

22 Name."

23 Do you have any understanding

24 what's indicated by last name, so in the first

1 row it's Guank(ph)?

2 A. Yes.

3 Q. And what is that?

4 A. I assume that is that doctor's

5 last name.

6 Q. Is it your assumption that the

7 first name refers to that doctor's first name?

8 A. Yes.

9 Q. And the title reflects that

10 doctor's professional title?

11 A. I believe so.

12 Q. So, for instance, in the first

13 row it is MD, so that represents what to you?

14 A. Medical doctor.

15 Q. And just skipping down to the

16 fourth row, it says NP, do you understand what

17 that means?

18 A. I do not.

19 Q. Is it possible that that means

20 nurse practitioner?

21 MS. MAHONEY: Objection.

22 THE WITNESS: It could be

23 possible.

24 BY MR. MELAMED:

1 Q. Do you know whether nurse

2 practitioners prescribed Opana?

3 A. I have no personal knowledge of

4 that.

5 Q. Do you know whether Actavis'

6 sales force ever marketed any opioids to nurse

7 practitioners?

8 A. I don't know.

9 Q. If you look down just a few more

10 rows, there's a DO.

11 Do you see that?

12 A. Mm-hmm.

13 Q. Do you know what DO stands for?

14 A. I believe it's doctor of -- it's

15 a type of doctor. I don't remember exactly the

16 word that it is.

17 Q. Returning to the columns, you see

18 there's address, city, state and zip code?

19 A. Yes.

20 Q. Do you understand -- do you

21 believe you understand what each of those stand

22 for?

23 A. Yes.

24 Q. And those are the address, city,

1 state and zip code for each individual physician

2 listed?

3 A. Yes.

4 Q. And I said "physician," I realize

5 they may not all be physicians.

6 For each individual listed,

7 correct?

8 A. Yes.

9 Q. You see where it says

10 "Specialty"?

11 A. Yes.

12 Q. The first one says "PM."

13 Do you know if that stands for

14 pain management?

15 A. I wouldn't know. I'd be

16 guessing.

17 Q. You have no idea anyway?

18 A. No.

19 Q. Do you know in the second row

20 what "IM" stands for?

21 A. No.

22 Q. Is it fair to say, I don't want

23 to have you read through this entire document,

24 but if you glance through the first, you know,

1 15 or so, do you have any understanding of what
 2 any of those abbreviations stand for?
 3 A. No.
 4 Q. The next column is "Phone," and
 5 for some individuals it appears to list a
 6 ten-digit number.
 7 Do you see that?
 8 A. Yes.
 9 Q. Do you have any understanding of
 10 what that information is?
 11 A. In the column that says phone,
 12 I'd assume it means it's their phone number if
 13 they provided one.
 14 Q. The next column says target list
 15 category.
 16 Do you see that?
 17 MS. MAHONEY: Objection.
 18 MR. MELAMED: I'm sorry. Thank
 19 you.
 20 THE WITNESS: I don't see --
 21 BY MR. MELAMED:
 22 Q. Yes. You won't see that because
 23 I read it wrong, again, not trying to trick you.
 24 The next column says "Target List

1 Territory."
 2 Do you see that?
 3 A. Yes.
 4 Q. Do you know what that refers to?
 5 A. I'm assuming it's a territory
 6 that the doctor is located in or practices in.
 7 Q. And do you see how, if you look
 8 at row two, and this is consistent with several
 9 others, there's an alphanumeric indicator before
 10 a geographic location?
 11 A. Mm-hmm.
 12 Q. And so in row 2 it's
 13 A207-Indianapolis, IN.
 14 Do you know what the A207 stands
 15 for in that?
 16 A. No, I don't.
 17 Q. And then the next column says
 18 "Zip Terr Territory."
 19 Do you see that?
 20 A. Yes.
 21 Q. Do you have any understanding of
 22 what's indicated by that column?
 23 A. I assume that it's the doctor's
 24 territory based upon their zip code.

1 Q. Okay. Now, moving over to the
 2 right side, the first column says "Opana 210,"
 3 and for the first row says 2,088.
 4 Do you understand what that 2,088
 5 indicates?
 6 A. I'm not sure how to interpret the
 7 data.
 8 Q. What are -- are there different
 9 interpretations that one could have of that
 10 number, reasonably?
 11 A. I don't --
 12 MS. MAHONEY: Objection.
 13 THE WITNESS: I don't know if
 14 that would be based on the number of
 15 prescriptions they've written or the
 16 number of units that were filled for
 17 that doctor.
 18 BY MR. MELAMED:
 19 Q. So do you agree that the 2,088
 20 refers to something having to do with Opana in
 21 the year 2010 as it relates to that, your
 22 doctor, Dr. Yang?
 23 MS. MAHONEY: Objection.
 24 THE WITNESS: I believe so, from

1 the way it's represented.
 2 BY MR. MELAMED:
 3 Q. The next column has Opana
 4 year-to-date, correct?
 5 A. Yes, sir.
 6 Q. And that here is 700.
 7 Do you see that?
 8 A. Yes.
 9 Q. Do you have any reason to believe
 10 that the 700 reflects a different unit of
 11 measure than the 2,088 in the Opana 2010
 12 category?
 13 A. I have no reason to believe that,
 14 but I don't understand how the data is
 15 presented.
 16 Q. Okay. Do you have any
 17 understanding of how the data is presented in
 18 the 5-milligram 2010 column?
 19 A. The same confusion extends to
 20 this. Directionally I understand the breakdown,
 21 but I don't understand what makes up the number.
 22 Q. So you're unsure what unit is
 23 being represented by the number?
 24 A. Yes.

1 Q. And so it could be, for instance,
2 bottles of Opana, correct?
3 MS. MAHONEY: Objection.
4 THE WITNESS: It's nonspecific.
5 It could be bottles. It could be --
6 these could be extended units, pills, by
7 some hundreds or thousands. It could be
8 any number.
9 Directionally I understand the
10 breakdown between the strengths.
11 BY MR. MELAMED:
12 Q. And is that the same -- do you
13 have the same answer concerning the units listed
14 under the 7.5-milligram column?
15 A. Yes, sir.
16 Q. And same answer for the
17 10-milligram column, columns, there's two?
18 A. Yes.
19 Q. And the same answer for the
20 15-milligram columns?
21 A. Yes, sir.
22 Q. And same answer for the
23 20-milligram columns?
24 A. Yes.

1 MS. MAHONEY: Objection.
2 THE WITNESS: I believe so.
3 BY MR. MELAMED:
4 Q. Okay. Did you ever undertake any
5 analysis to determine whether any of the orders
6 from these individual doctors were suspicious?
7 MS. MAHONEY: Objection.
8 THE WITNESS: Could you repeat.
9 BY MR. MELAMED:
10 Q. Did you ever -- did you ever
11 undertake any analysis to determine -- I'll
12 start that again. Tripping over my tongue
13 again.
14 Did you ever undertake any
15 analysis to determine whether any of the orders
16 from these individual doctors were suspicious?
17 MS. MAHONEY: Objection.
18 MS. ZOLNER: Objection to form.
19 THE WITNESS: I did not.
20 BY MR. MELAMED:
21 Q. Do you understand the meaning of
22 the word suspicious as I'm using it in that
23 question?
24 MS. MAHONEY: Objection.

1 Q. And the same answer for the
2 30-milligram columns?
3 A. Yes.
4 Q. And the same answer for the
5 40-milligram columns?
6 A. Yes.
7 Q. Do you know whether the direct
8 mailing campaign utilized the information from
9 this spreadsheet to get its 10,000 prescribing
10 doctors?
11 MS. MAHONEY: Objection.
12 THE WITNESS: It appears that
13 they are listed in descending order by
14 highest prescribing to lowest
15 prescribing, and that's what we would
16 have used the names based on that.
17 BY MR. MELAMED:
18 Q. So is it your belief that this is
19 the information that was used to -- I'm sorry,
20 let me withdraw that.
21 Is it your belief that the
22 individuals listed on this spreadsheet were the
23 individuals targeted for the direct mailing
24 campaign that is discussed in the cover e-mail?

1 THE WITNESS: I believe that you
2 are inferring to orders that would be of
3 overprescribing.
4 BY MR. MELAMED:
5 Q. Do you know if anybody at Actavis
6 undertook any analysis to determine whether any
7 of the orders from these individual doctors were
8 suspicious, using the definition you just used?
9 MS. MAHONEY: Objection.
10 THE WITNESS: Actavis does not
11 see prescriptions directly from doctors.
12 BY MR. MELAMED:
13 Q. So is the answer then that
14 Actavis didn't -- not do any follow-up to
15 determine whether any of the subscriptions
16 listed in the spreadsheet that we're discussing
17 were suspicious?
18 MS. MAHONEY: Objection.
19 THE WITNESS: Not that I'm aware
20 of.
21 BY MR. MELAMED:
22 Q. Are you aware that -- let me
23 withdraw that.
24 Are you aware that Opana was

1 resold illegally on the streets after it had
 2 been prescribed, as a general matter?
 3 MS. MAHONEY: Objection.
 4 THE WITNESS: I am not aware of
 5 that.
 6 BY MR. MELAMED:
 7 Q. You are not currently aware of
 8 that?
 9 MS. MAHONEY: Objection, asked
 10 and answered.
 11 THE WITNESS: I am not aware of
 12 that.
 13 BY MR. MELAMED:
 14 Q. And is that -- I'm just trying to
 15 flesh out and make sure I understand, does that
 16 mean you were never at any time prior to today
 17 aware of that?
 18 MS. MAHONEY: Objection.
 19 THE WITNESS: No.
 20 BY MR. MELAMED:
 21 Q. I don't want to belabor the
 22 point. When you say "no," does it mean you are
 23 not aware, or does it mean that you were
 24 answering my question that you were, in fact,

1 Q. Are you aware of any pill mills
 2 that were inappropriately dispensing
 3 oxymorphone?
 4 A. No, I am not.
 5 Q. And that is for all time, you
 6 have -- at no time have you become aware of
 7 that; is that correct?
 8 MS. MAHONEY: Objection.
 9 THE WITNESS: No. I may have
 10 read a news article at some point, but I
 11 don't recall anything.
 12 BY MR. MELAMED:
 13 Q. Just to be clear, you may at one
 14 point have read an article talking about the
 15 prescription of oxymorphone by pill mills, but
 16 you don't recall whether or not you did?
 17 MS. MAHONEY: Objection.
 18 THE WITNESS: I understand the
 19 term pill mill because I may have in the
 20 past read an article that deals with
 21 that. It's not specific to oxymorphone.
 22 BY MR. MELAMED:
 23 Q. So is it correct to say that you
 24 don't recall having read any articles specific

1 aware?
 2 MS. ZOLNER: Object to form.
 3 MS. MAHONEY: Objection.
 4 THE WITNESS: I am not aware of
 5 instances where Opana, generic Opana has
 6 been sold illegally on the street.
 7 BY MR. MELAMED:
 8 Q. Are you aware of any instances
 9 where branded Opana has been sold illegally on
 10 the street?
 11 MS. MAHONEY: Objection.
 12 THE WITNESS: No, I am not.
 13 BY MR. MELAMED:
 14 Q. Are you aware of any instances
 15 where -- let me withdraw this.
 16 Do you understand what is meant
 17 by the term pill mill?
 18 A. I believe I have a colloquial
 19 understanding of that phrase.
 20 Q. What is your colloquial
 21 understanding of that phrase?
 22 A. I believe it to be clinics or
 23 doctors who are inappropriately dispensing or
 24 prescribing a product.

1 to oxymorphone concerning pill mills?
 2 MS. ZOLNER: Objection, form.
 3 MS. MAHONEY: Objection.
 4 THE WITNESS: Yes, I have not
 5 read any articles specific.
 6 MS. MAHONEY: We're happy to take
 7 a break when you think it's appropriate,
 8 Matt.
 9 MR. MELAMED: Would you like to
 10 take a break, or do you want to keep
 11 going a little bit longer first?
 12 THE WITNESS: What do you want
 13 me --
 14 MS. MAHONEY: We're fine. This
 15 is your call.
 16 THE WITNESS: You're human beings
 17 too.
 18 MR. MELAMED: If anybody would
 19 like to take a break, they can let me
 20 know.
 21 THE WITNESS: I'm fine to go a
 22 short time more, but I will need take a
 23 break.
 24 MR. MELAMED: Fair enough.

1 THE WITNESS: Thank you.
 2 MR. MELAMED: We'll do another
 3 document --
 4 THE WITNESS: Water.
 5 MR. MELAMED: -- and I'll check
 6 in and take a break. That makes sense.
 7 MS. MAHONEY: Thank you, Matt.
 8 MR. MELAMED: We are all human
 9 beings.
 10 (Document marked for
 11 identification as Myers Deposition
 12 Exhibit No. 16.)
 13 BY MR. MELAMED:
 14 Q. Exhibit 16. Exhibit 16 is an
 15 e-mail exchange, the most recent in time being
 16 from David Myers to Karen Stoedter on July 19th,
 17 2011. It starts ALLERGAN_MDL_00505041 and
 18 concludes on 5044.
 19 Do you recognize this document,
 20 this e-mail exchange?
 21 A. No.
 22 Q. Do you have any reason to believe
 23 you did not send the e-mails that are -- that
 24 indicate they are from David Myers?

1 circumstances at work, right?
 2 MS. MAHONEY: Objection.
 3 THE WITNESS: Yes.
 4 BY MR. MELAMED:
 5 Q. I'd like you to turn to the first
 6 e-mail in this chain, which actually starts on
 7 the second page of it at 5042. It's from Karen
 8 Stoedter to a large number of recipients. The
 9 subject is "Recap of Sales/Marketing/Contracts
 10 meeting - Monday, July 18th."
 11 Do you recall reading this e-mail
 12 prior to today?
 13 A. From the conversation in the
 14 e-mail, it's obvious that I reviewed it, yes.
 15 Q. Do you have any specific
 16 recollection of reviewing it before it's been
 17 placed before you right now?
 18 A. No.
 19 Q. Do you recall
 20 sales/marketing/contracts meetings in which you
 21 are -- you were a participant?
 22 MS. ZOLNER: Object to the form.
 23 THE WITNESS: Yes.
 24 BY MR. MELAMED:

1 A. No.
 2 Q. Do you have any reason to believe
 3 that you did not receive the e-mails that were
 4 sent to David Myers on this exhibit?
 5 A. No.
 6 Q. These e-mails concern your work
 7 at Actavis, correct?
 8 MS. MAHONEY: Objection.
 9 THE WITNESS: I believe so.
 10 BY MR. MELAMED:
 11 Q. Again, they're not personal,
 12 right?
 13 MS. MAHONEY: Objection.
 14 THE WITNESS: No. Some of the
 15 language is personal between a close
 16 colleague.
 17 BY MR. MELAMED:
 18 Q. But even the -- and I assume
 19 you're referring to the first paragraph --
 20 A. Yes.
 21 Q. -- in the entire e-mail, correct?
 22 A. Yes.
 23 Q. Even the personal language
 24 between you and Ms. Stoedter concerns

1 Q. Can you describe the purpose of
 2 those meetings?
 3 MS. MAHONEY: Objection.
 4 THE WITNESS: Yes.
 5 BY MR. MELAMED:
 6 Q. And what is the purpose of --
 7 what was the purpose of those meetings?
 8 A. The purpose of the meeting is
 9 typically every Monday morning, the commercial
 10 team, which would be members of the sales team,
 11 the marketing group and our contracts pricing
 12 people would get on a conference call, and we
 13 would talk orders of business for the week,
 14 production concerns, launches, anything that
 15 might -- we might need to make everybody aware
 16 of. It was a forum for us to discuss our
 17 business concerns.
 18 Q. And was this commercial team
 19 specifically comprised of individuals -- let me
 20 withdraw that. That's really awkward.
 21 Did these meetings concern
 22 generic opioids, specifically?
 23 MS. MAHONEY: Objection.
 24 THE WITNESS: These meetings were

<p style="text-align: right;">Page 257</p> <p>1 not specific to opioids at all.</p> <p>2 BY MR. MELAMED:</p> <p>3 Q. Were these meetings specific to</p> <p>4 generic drugs?</p> <p>5 A. Yes.</p> <p>6 Q. Were brand name drugs discussed</p> <p>7 at these meetings?</p> <p>8 A. Rarely, if at all.</p> <p>9 Q. So the first paragraph is titled</p> <p>10 "Oxymorphone."</p> <p>11 Do you see that in Karen's</p> <p>12 e-mail?</p> <p>13 A. Yes.</p> <p>14 Q. And in the middle of the</p> <p>15 paragraph it says, "We have a two-way direct</p> <p>16 mail campaign to the top 10 prescribing</p> <p>17 physicians."</p> <p>18 Do you see that?</p> <p>19 A. Can I read the paragraph?</p> <p>20 Q. Yes.</p> <p>21 A. Thank you.</p> <p>22 (Witness reviews document.)</p> <p>23 Okay. Can you repeat your</p> <p>24 question --</p>	<p style="text-align: right;">Page 258</p> <p>1 Q. Sure?</p> <p>2 A. -- now that I've read it. Thank</p> <p>3 you.</p> <p>4 Q. Yes. I'm going to start from the</p> <p>5 beginning of the paragraph instead of jumping to</p> <p>6 the middle.</p> <p>7 A. Okay.</p> <p>8 Q. Beginning of the paragraph Karen</p> <p>9 wrote, "We successfully launched oxymorphone on</p> <p>10 Friday, July 15th with over 75% market share."</p> <p>11 Do you know what time period that</p> <p>12 75% market share reflected?</p> <p>13 MS. MAHONEY: Objection.</p> <p>14 THE WITNESS: I do not.</p> <p>15 BY MR. MELAMED:</p> <p>16 Q. How do you understand the</p> <p>17 sentence that she wrote, that first sentence?</p> <p>18 MS. MAHONEY: Objection.</p> <p>19 THE WITNESS: I believe it's a</p> <p>20 misinterpretation of market share. We</p> <p>21 did not obtain 75% market share on day</p> <p>22 one of launch. I believe it may have</p> <p>23 been an estimate based on the number of</p> <p>24 orders we shipped and what that</p>
<p style="text-align: right;">Page 259</p> <p>1 represented in market share, but that</p> <p>2 really wasn't our market share.</p> <p>3 BY MR. MELAMED:</p> <p>4 Q. Okay. Am I correct that you're</p> <p>5 saying that it was a projection of potential</p> <p>6 market share based on first day sales?</p> <p>7 MS. ZOLNER: Objection, form.</p> <p>8 MS. MAHONEY: Objection.</p> <p>9 THE WITNESS: No.</p> <p>10 BY MR. MELAMED:</p> <p>11 Q. Do you have any understanding of</p> <p>12 what the estimate of 75% market share was based</p> <p>13 on?</p> <p>14 MS. ZOLNER: Objection, form.</p> <p>15 MS. MAHONEY: Objection.</p> <p>16 THE WITNESS: I believe that</p> <p>17 Karen, the author of this document, was</p> <p>18 taking notes quickly, obviously, there's</p> <p>19 a lot of information contained here</p> <p>20 about a conversation. I'm assuming that</p> <p>21 she does not have court reporter skills,</p> <p>22 so I believe she may have misinterpreted</p> <p>23 some of this.</p> <p>24 But the 75% market share I</p>	<p style="text-align: right;">Page 260</p> <p>1 believe may have been the units that we</p> <p>2 shipped on day one to fill the pipeline</p> <p>3 at our -- at wholesalers and</p> <p>4 distributors may have been equal to one</p> <p>5 month's sales back at the time when</p> <p>6 Opana was being sold for these</p> <p>7 strengths, 75% of one month's sales.</p> <p>8 That's how I'm interpreting it.</p> <p>9 BY MR. MELAMED:</p> <p>10 Q. Second sentence says, "The</p> <p>11 product released earlier in the day and dropped</p> <p>12 \$1.4 million in orders to UPS before lunchtime."</p> <p>13 A. Yes.</p> <p>14 Q. Can you explain what is meant --</p> <p>15 what you understood dropped 1.4 million in</p> <p>16 orders to UPS before lunchtime to mean?</p> <p>17 A. I believe that she was talking</p> <p>18 about the success of our supply chain in</p> <p>19 shipping orders for orders that we had.</p> <p>20 Q. So that before lunchtime on the</p> <p>21 first day that Actavis had oxymorphone</p> <p>22 available, it had made -- is it accurate to say</p> <p>23 that it had made \$1.4 million in -- worth of</p> <p>24 sales in that time period?</p>

1 MS. MAHONEY: Objection.
2 THE WITNESS: Could you ask the
3 question again. I'm sorry.
4 BY MR. MELAMED:
5 Q. I'm trying to figure out what the
6 \$1.4 million refers to. It says in orders to
7 UPS.
8 Are those sales?
9 A. Yes.
10 Q. Are those drugs that Actavis had
11 sold in that time period?
12 A. Those are Acta -- those are
13 orders, the value of orders that had been
14 shipped to drug wholesalers and to distributors,
15 retailers, our whole -- whoever was buying from
16 us. It's not to patients or dispensing.
17 Q. Fair enough. So, again, correct
18 me if I'm wrong, my understanding of what you're
19 saying is that before lunchtime on the first day
20 of sales, Actavis had -- orders of oxymorphone
21 from Actavis had equaled \$1.4 million?
22 A. Yes.
23 MS. MAHONEY: Objection.
24 BY MR. MELAMED:

1 Q. Does this sentence reflect that
2 effort?
3 MS. MAHONEY: Objection.
4 MS. ZOLNER: Objection, form.
5 Objection, foundation.
6 THE WITNESS: I believe it
7 reflects a preparation of the Kadian
8 team to potentially deliver that.
9 BY MR. MELAMED:
10 Q. Okay. So is the Kadian team also
11 tasked -- did you -- let me withdraw that.
12 Did you understand that the
13 Kadian sales team would also be tasked with
14 delivering the direct mailing materials that
15 everyone will receive at the trade show?
16 MS. MAHONEY: Objection.
17 THE WITNESS: Yes.
18 BY MR. MELAMED:
19 Q. Are those the direct mailing
20 materials that were sent to the top 10,000
21 prescribing doctors of Opana ER?
22 MS. ZOLNER: Objection, form.
23 THE WITNESS: Yes.
24 BY MR. MELAMED:

1 Q. If we skip a sentence, the fourth
2 sentence, I believe, says, "The Kadian team will
3 be training with Ara next Monday so they will be
4 able to bring the doctors they normally visit up
5 to speed on generic option and also deliver the
6 direct mailing materials that you all receive at
7 the trade show."
8 Do you understand the -- do you
9 understand the reference to the generic option
10 in that sentence?
11 A. Yes.
12 Q. Is that to the availability of
13 generic oxymorphone?
14 A. Yes.
15 Q. And does this sentence reflect --
16 if you recall earlier that we looked at a
17 document about the promotional plan for
18 oxymorphone on its launch?
19 A. Yes.
20 Q. And one of the elements was using
21 the Kadian sales team, correct?
22 MS. ZOLNER: Objection, form.
23 THE WITNESS: Yes.
24 BY MR. MELAMED:

1 Q. And do you understand the
2 reference to the receipt of those direct mailing
3 materials at the trade show?
4 A. Yes, I believe I do.
5 Q. Do you know what trade show she
6 was talking about?
7 A. That's the piece I don't
8 understand.
9 Q. Okay. Do you recall there being
10 a trade show where Actavis introduced
11 oxymorphone?
12 MS. MAHONEY: Objection.
13 THE WITNESS: No.
14 BY MR. MELAMED:
15 Q. The next sentence states, "We are
16 focusing on creating awareness and want to
17 target physicians to continue to write and
18 increase their scripts."
19 Do you see that?
20 A. Yes.
21 Q. That describes the motivation for
22 the advertising campaign for oxymorphone; is
23 that right?
24 MS. MAHONEY: Objection.

<p style="text-align: right;">Page 265</p> <p>1 THE WITNESS: This sentence is</p> <p>2 vague and was written by a person who is</p> <p>3 not a product manager.</p> <p>4 BY MR. MELAMED:</p> <p>5 Q. How do you understand that</p> <p>6 sentence?</p> <p>7 A. I understand the objective behind</p> <p>8 the sentence.</p> <p>9 Q. What is your understanding of the</p> <p>10 objective behind the sentence?</p> <p>11 A. That physicians were targeted to</p> <p>12 receive the information to let them know that</p> <p>13 the 7.5 mg and 15 mg was approved and available</p> <p>14 for patients that they felt were appropriate to</p> <p>15 receive those strengths.</p> <p>16 Q. You said that Karen is not a</p> <p>17 product manager, correct?</p> <p>18 A. Yes.</p> <p>19 Q. What was her role?</p> <p>20 A. Karen's main role was manager of</p> <p>21 forecasting, but she was part of the commercial</p> <p>22 team in that role.</p> <p>23 Q. The next couple sentences</p> <p>24 describe a two-way direct mail campaign to the</p>	<p style="text-align: right;">Page 266</p> <p>1 top 10 prescribing physicians.</p> <p>2 Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. Do you believe that number 10 to</p> <p>5 be an error?</p> <p>6 A. I believe there are a couple</p> <p>7 errors in this sentence.</p> <p>8 Q. Can you identify the errors for</p> <p>9 me?</p> <p>10 A. To the top 10 prescribing</p> <p>11 physicians would be a very minimal marketing</p> <p>12 campaign, and, also, I think it represents that</p> <p>13 how she does not understand the marketing aspect</p> <p>14 and was a note taker from this meeting. She</p> <p>15 says two way and not two wave.</p> <p>16 Q. Okay. Do you understand this</p> <p>17 sentence to be referring to a discussion of the</p> <p>18 direct mail campaign we discussed earlier?</p> <p>19 A. Yes.</p> <p>20 Q. And so it was 10,000 physicians</p> <p>21 who were targeted?</p> <p>22 MS. MAHONEY: Objection.</p> <p>23 THE WITNESS: Yes.</p> <p>24 BY MR. MELAMED:</p>
<p style="text-align: right;">Page 267</p> <p>1 Q. And it was a -- they would be</p> <p>2 targeted in two separate communications over</p> <p>3 time, correct?</p> <p>4 A. I believe it to be two waves of</p> <p>5 the same communication.</p> <p>6 Q. Two waves of the same</p> <p>7 communication to each of the 10,000; is that</p> <p>8 correct?</p> <p>9 A. Yes.</p> <p>10 Q. If you skip a sentence, it says,</p> <p>11 "We have booked Pharmacy Times (Aug)."</p> <p>12 A. Mm-hmm.</p> <p>13 Q. Is that a reference to having</p> <p>14 booked an advertis -- advertising space in a</p> <p>15 periodical called Pharmacy Times for their</p> <p>16 August issue?</p> <p>17 A. I believe that represents that,</p> <p>18 yes.</p> <p>19 Q. The next sentence, acknowledging</p> <p>20 these are notes --</p> <p>21 A. Right.</p> <p>22 Q. -- it says, "and will work with</p> <p>23 major wholesalers and chains to target doctors</p> <p>24 and patients to get the word out to utilize the</p>	<p style="text-align: right;">Page 268</p> <p>1 generic."</p> <p>2 Do you see that?</p> <p>3 MS. MAHONEY: Objection.</p> <p>4 THE WITNESS: I do.</p> <p>5 BY MR. MELAMED:</p> <p>6 Q. Do you see that -- to utilize the</p> <p>7 generic, do you understand that to mean to</p> <p>8 utilize generic oxymorphone being sold by</p> <p>9 Actavis?</p> <p>10 A. I do.</p> <p>11 Q. Do you understand what is meant</p> <p>12 by work with major wholesalers and chains to</p> <p>13 target doctors and patients?</p> <p>14 A. I believe that to be an error.</p> <p>15 Q. What do you believe to be the</p> <p>16 error in that sentence?</p> <p>17 A. I don't believe that wholesalers</p> <p>18 and chains have direct contacts to doctors or</p> <p>19 patients.</p> <p>20 Q. Do you recall working with</p> <p>21 wholesalers or chains to promote oxymorphone?</p> <p>22 A. I don't remember specific</p> <p>23 campaigns, but it is possible we did something.</p> <p>24 Q. Do you recall working with</p>

1 wholesalers and chains to promote other drugs at
 2 Actavis?
 3 A. From time to time.
 4 Q. Can you describe how, as a
 5 general matter, you worked with wholesalers and
 6 chains to promote generic drugs?
 7 MS. ZOLNER: Objection, form.
 8 MS. MAHONEY: Objection.
 9 THE WITNESS: Wholesalers and
 10 chains could have fliers or leaflets
 11 that they send out to their member
 12 customers, customers being pharmacies.
 13 Chains may have newsletters out from
 14 their corporate office down to their
 15 pharmacies, and we may have, you know,
 16 made product availability announcements
 17 in those.
 18 BY MR. MELAMED:
 19 Q. Do you know if wholesalers
 20 communicated anything more to their customers
 21 than your product availability concerning any of
 22 Actavis' drugs at any time?
 23 MS. ZOLNER: Objection to form.
 24 MS. MAHONEY: Objection.

1 MR. JOHNSON: Objection to form.
 2 THE WITNESS: No.
 3 BY MR. MELAMED:
 4 Q. Do you know whether -- well, what
 5 is meant -- what is referred to by chains here?
 6 Do you understand what is referred to by chains
 7 in this sentence?
 8 A. National or regional drug chains.
 9 Q. Do you know if national or
 10 regional drug chains at any point provided any
 11 information about Actavis' drugs to their
 12 customers other than mere availability?
 13 MS. MAHONEY: Objection.
 14 THE WITNESS: No.
 15 BY MR. MELAMED:
 16 Q. When you're saying "no," it's you
 17 don't know; is that correct?
 18 A. I don't know.
 19 Q. Okay. Do you see the next
 20 sentence says, "The sales team can be helpful in
 21 driving this to get reasonable feedback from
 22 customers over several weeks to see if the
 23 demand has increased or maintained," I'll stop
 24 there, the sentence continues.

1 A. Let me read just a little back.
 2 Q. Sure.
 3 A. (Witness reviews document.)
 4 Yes.
 5 Q. Do you recall whether the sales
 6 team ever did get feedback from customers over
 7 the next several weeks to see if demand for
 8 oxymorphone had increased or maintained?
 9 A. I don't recall specifically, but
 10 it's quite possible.
 11 Q. Do you know who would have led
 12 the effort on the sales team to compile that
 13 feedback?
 14 MS. MAHONEY: Objection.
 15 MS. ZOLNER: Objection to form.
 16 THE WITNESS: No. If there was
 17 feedback, it would have been the
 18 individual salesperson that represents
 19 or had contact with that assigned
 20 account.
 21 BY MR. MELAMED:
 22 Q. And you don't know whether there
 23 was any effort to bring together any
 24 communications with accounts pursuant to the

1 effort to get reasonable feedback from customers
 2 regarding oxymorphone's launch?
 3 MS. MAHONEY: Objection.
 4 THE WITNESS: I don't believe
 5 there was a formalized system for doing
 6 that.
 7 BY MR. MELAMED:
 8 Q. The end of that sentence talks
 9 about evaluating -- doing what we've just talked
 10 about and "evaluating the effectiveness of our
 11 marketing campaign."
 12 Do you see that?
 13 A. Yes.
 14 Q. Do you recall any work done to
 15 measure the effectiveness of Actavis' marketing
 16 campaign around the launch of generic
 17 oxymorphone?
 18 A. I remember personally putting
 19 reports together that stated sales, our sales
 20 out and comparing that to prescriptions and
 21 monitoring different aspects of the -- of the
 22 launch.
 23 Q. Were those reports something that
 24 you compiled on a regular basis?

1 MS. MAHONEY: Objection.
 2 THE WITNESS: Yes.
 3 BY MR. MELAMED:
 4 Q. About how frequently did you
 5 compile them?
 6 MS. ZOLNER: Objection, form.
 7 THE WITNESS: I'm not sure, but I
 8 think about once a month.
 9 BY MR. MELAMED:
 10 Q. Did anybody request that you
 11 provide those reports?
 12 A. I believe the -- I believe they
 13 were requested by one of two people, either the
 14 vice president of sales, Michael Perfetto or the
 15 director of marketing, Jinping McCormick.
 16 Q. Do you recall whether you
 17 provided those evaluations to Ms. McCormick when
 18 they were complete?
 19 MS. MAHONEY: Objection.
 20 MS. ZOLNER: Objection, form.
 21 THE WITNESS: I don't
 22 specifically remember sending them to
 23 her, but it would be likely that I did,
 24 as she was my supervisor.

1 \$46.4 million?
 2 A. I believe so.
 3 Q. The third sentence states, "We
 4 need to get additional traction on fentanyl."
 5 Do you see that?
 6 A. Yes.
 7 Q. Do you recall an effort to get
 8 additional traction on fentanyl around
 9 July 2011?
 10 MS. MAHONEY: Objection.
 11 THE WITNESS: I recall marketing
 12 campaigns. I don't recall if they -- if
 13 the time corresponds to this time of
 14 this document.
 15 BY MR. MELAMED:
 16 Q. Were there other instances -- do
 17 you recall other instances at Actavis where you
 18 needed to get additional traction on the sales
 19 of a particular generic drug?
 20 A. Yes.
 21 Q. Was there a standard set of
 22 actions that were then undertaken, undertaken in
 23 the effort to get additional traction on those
 24 generic drugs?

1 BY MR. MELAMED:
 2 Q. Do you recall whether you
 3 provided those reports to Mr. Perfetto?
 4 A. I don't specifically recall, but
 5 it would be likely that I would, as he was the
 6 head of sales.
 7 Q. Is there anybody else you can
 8 think of who you would likely have provided
 9 those reports to?
 10 MS. ZOLNER: Objection, form.
 11 THE WITNESS: It's possible I
 12 could have provided them to other
 13 members of our sales team, although just
 14 for informational purposes for them.
 15 They weren't really in a capacity to
 16 impact sales at that point.
 17 BY MR. MELAMED:
 18 Q. Go to the next section. It says
 19 "Our Focus," and the first sentence says "Sales
 20 for the month - \$20.3 vs. \$46.4."
 21 Do you see that?
 22 A. Yes.
 23 Q. Are those figures -- do those
 24 figures reflect \$20.3 million versus

1 A. Repeat, please.
 2 Q. Was there a standard set of
 3 actions that were then undertaken in the effort
 4 to get additional traction on those generic
 5 drugs?
 6 A. It wasn't a standard set of
 7 actions. It was basically a guideline for
 8 understanding your business and taking actions,
 9 and those actions could be different based on
 10 the particular situation for that product.
 11 Q. About two-thirds of the way down
 12 the -- part of the paragraph reflected on this
 13 page, on 505 -- I'm sorry -- 5042, there's a
 14 sentence that says, "There may be opportunity to
 15 pick up additional oxycodone since there
 16 continues to be shortages in the marketplace."
 17 Do you see that?
 18 A. Yes.
 19 Q. Do you have any recollection of
 20 why there were shortages in the marketplace?
 21 MS. MAHONEY: Objection.
 22 THE WITNESS: No.
 23 BY MR. MELAMED:
 24 Q. If you turn back to the first

1 page of this exhibit, you and Karen exchange
 2 e-mails about the process of taking notes at
 3 these meetings, correct?
 4 A. Yes.
 5 Q. And your final e-mail talks about
 6 how individuals who take notes may compete to
 7 one up each other; is that right?
 8 A. Yes.
 9 Q. And you talk about -- I assume
 10 humorously talk about --
 11 A. Yes.
 12 Q. -- playing music when someone
 13 opens your summary e-mail, correct?
 14 MS. MAHONEY: Objection.
 15 THE WITNESS: Yes.
 16 BY MR. MELAMED:
 17 Q. And then you say something
 18 pharmaceutical in quotes?
 19 A. I see that that's written there,
 20 yes.
 21 Q. And you reference the song White
 22 Rabbit.
 23 Do you see that?
 24 A. I do.

1 lyric to White Rabbit that had anything to do --
 2 that you quote that had anything to do with any
 3 of Actavis' products?
 4 A. No, it had to do with my
 5 knowledge of contemporary music.
 6 MS. MAHONEY: Only some of us in
 7 the room think that's contemporary
 8 music.
 9 THE WITNESS: Well, at my age
 10 it's contemporary. At one time it was
 11 contemporary.
 12 MR. MELAMED: It is true that at
 13 one time that's what was contemporary.
 14 Why don't we go off the record.
 15 THE VIDEOGRAPHER: The time is
 16 2:47 p.m. We're going off the record.
 17 (Brief recess.)
 18 (Document marked for
 19 identification as Myers Deposition
 20 Exhibit No. 17.)
 21 THE VIDEOGRAPHER: The time is
 22 3:03 p.m., and we're back on the record.
 23 BY MR. MELAMED:
 24 Q. I've just handed you what's been

1 Q. Do you have any understanding of
 2 why you used the song White Rabbit as an
 3 example?
 4 A. I can give you the background on
 5 the conversation.
 6 Q. Sure.
 7 A. Jinping is a brilliant woman, and
 8 it was known that when Jinping would -- with two
 9 people or three people did something, Jinping
 10 would also -- would always be a little bit
 11 above, a little bit greater. She was a little
 12 extra, and so others would strive to bring their
 13 game up to the level of her expertise, and so it
 14 was a joke on that unspoken competition, so to
 15 speak. She was the person to whose performance
 16 to aspire to. So that's what the competition
 17 that I'm discussing is.
 18 So the White Rabbit was not a
 19 joke pertaining to opioids, although I can see
 20 how you would think that here, but we are in the
 21 pharmaceutical industry, and this was a joke
 22 internally between two colleagues who share a
 23 warm friendship.
 24 Q. Was there anything about the

1 marked Exhibit 17, which is an e-mail and an
 2 attachment. The e-mail is from David Myers to
 3 Ara Aprahamian on July 22nd, 2011. Subject is
 4 "Oxymorphone training to Kadian sales team," and
 5 then there's an attachment. There are two. The
 6 Bates range is ALLERGAN_MDL_00504974 through
 7 4994.
 8 Do you recognize this document?
 9 A. No.
 10 Q. Do you have any reason to believe
 11 that you did not send this e-mail and the
 12 attachment to it?
 13 A. No, sir.
 14 Q. And sending this e-mail and this
 15 attachment was part of your duties at Actavis?
 16 A. Yes.
 17 Q. You referenced -- we've discussed
 18 before earlier today that Actavis would use its
 19 Kadian sales team to inform doctors about the
 20 availability of generic oxymorphone, correct?
 21 MS. MAHONEY: Objection.
 22 THE WITNESS: Yes.
 23 BY MR. MELAMED:
 24 Q. If you look at the email, you

1 write that the attached slide deck is approved
 2 for Monday's presentation to the Kadian sales
 3 team.
 4 Do you see that?
 5 A. Yes.
 6 Q. And if you turn to the first page
 7 of the presentation, which is at Bates number
 8 ending 4976, it states "Introduction of
 9 Oxymorphone Hydrochloride Extended-Release
 10 Tablets, CII Sales Training Class."
 11 Do you see that?
 12 A. Yes, I do.
 13 Q. Is this the training that was
 14 provided to the Kadian sales team about
 15 introducing oxymorphone to doctors?
 16 MS. MAHONEY: Objection.
 17 THE WITNESS: I believe so.
 18 BY MR. MELAMED:
 19 Q. Is that the purpose for which
 20 this was approved?
 21 A. I believe so.
 22 Q. Do you know whether this was
 23 actually -- this presentation was ever given to
 24 the Kadian sales team?

1 August 3rd, 2011." The Bates range for this
 2 document is ALLERGAN_MDL_00504796 through 4815.
 3 Do you recognize this e-mail and
 4 the attached PowerPoint presentation?
 5 A. No, I do not.
 6 Q. Do you have any reason to believe
 7 that you did not receive these from Rachelle
 8 Galant on or around August 2nd, 2011?
 9 A. No.
 10 Q. Do you know what SIOP stands for?
 11 A. I don't remember.
 12 Q. Do you recall the purpose of the
 13 quarterly SIOP meetings?
 14 A. It appears to be a strategy
 15 meeting for our overall business.
 16 Q. Did you participate in those
 17 meetings?
 18 A. I believe so.
 19 Q. Do you know who prepared the
 20 PowerPoint presentation?
 21 A. I do not.
 22 Q. Do you recall attending a
 23 quarterly SIOP marketing meeting on or around
 24 August 3rd, 2011?

1 A. I do not know. I wasn't at this
 2 training.
 3 Q. Do you know, referring back to
 4 the e-mail, the first line says, "The attached
 5 slide deck is approved for use in Monday's
 6 presentation," do you know who approved it?
 7 A. I believe it would have been
 8 the -- routed for full approval like all
 9 advertising and training documents. I don't
 10 remember specific people.
 11 Q. Okay. You can put that exhibit
 12 aside.
 13 (Document marked for
 14 identification as Myers Deposition
 15 Exhibit No. 18.)
 16 BY MR. MELAMED:
 17 Q. I'm handing you what's been
 18 marked as Exhibit 18.
 19 Exhibit 18 is an e-mail from
 20 Rachelle Galant to Mike Diblasi and cc'ing
 21 Mr. Myers and others, sent August 2nd, 2011.
 22 Subject is Marketing SIOP August 3, 2011
 23 PowerPoint, and it attaches a PowerPoint
 24 document called "Quarterly SIOP - Marketing

1 A. Not specifically.
 2 Q. Do you recall generally attending
 3 quarterly SIOP marketing meetings?
 4 A. Yes.
 5 Q. Where were they?
 6 A. In our offices in New Jersey.
 7 Q. In Parsippany?
 8 A. I think at the time we were in
 9 Morristown.
 10 Q. Okay. Do you recall who
 11 participated in those meetings?
 12 A. I don't remember all of the
 13 attendees.
 14 Q. Would -- do you recall whether
 15 the individuals listed as recipients in the to
 16 and CC line of the e-mail at 796 would have --
 17 were regular attendees of the quarterly SIOP
 18 marketing meetings?
 19 MS. MAHONEY: Objection.
 20 THE WITNESS: I do not know.
 21 BY MR. MELAMED:
 22 Q. Is there anybody you recall being
 23 at a quarterly SIOP meeting who is not reflected
 24 amongst the recipients of the August 2nd e-mail

1 in Exhibit 18?

2 A. I don't remember all of the
3 participants.

4 Q. Does anybody stick out as not --
5 for their absence from this e-mail?

6 MS. ZOLNER: Objection, form.

7 MS. MAHONEY: Objection.

8 THE WITNESS: No.

9 MR. MELAMED: Okay. You can put
10 that aside.

11 (Document marked for
12 identification as Myers Deposition
13 Exhibit No. 19.)

14 BY MR. MELAMED:

15 Q. I'm handing you what's been
16 marked Exhibit 19.

17 Exhibit 19 is -- most recent in
18 time is an e-mail from Jinping McCormick to Ara
19 Aprahamian and Michael Perfetto and David Myers,
20 August 18th, 2011. Subject, forward, Opioid
21 Article May PPM 2011, which forwards an e-mail
22 from Sean Cunningham, and then there is an
23 attachment thereto. The document starts at
24 Bates number ALLERGAN_MDL_050 -- I'm sorry --

1 you did not receive the e-mail and article when
2 they were forwarded to David Myers on or around
3 August 18th, 2011?

4 A. No.

5 Q. And this e-mail and article do
6 not concern personal communications, correct?

7 A. No.

8 Q. They concern your work at
9 Actavis?

10 A. Yes.

11 MS. MAHONEY: Objection.

12 BY MR. MELAMED:

13 Q. If you look at the e-mail from
14 Sean Cunningham, he states that he wanted to
15 share this article "as it is relevant to your
16 brand and could be a tool that your brand and
17 have your reps use as a detail piece or
18 leave-behind."

19 Turning to the front page of the
20 attached article at 575, it's the title of the
21 article is "Medications for Chronic Pain -
22 Opioid Analgesics."

23 Do you see that?

24 A. Yes.

1 00504574 and ends on 4584. I'm going to draw
2 your attention to the first -- to the cover page
3 first, the e-mails.

4 Do you know who Sean Cunningham
5 was?

6 MS. MAHONEY: Objection.

7 THE WITNESS: Yes.

8 BY MR. MELAMED:

9 Q. Who was Sean Cunningham?

10 MS. MAHONEY: Objection.

11 THE WITNESS: He was a
12 representative of a -- I believe a trade
13 journal.

14 BY MR. MELAMED:

15 Q. Is Vertical Health the name of
16 that trade journal?

17 A. No.

18 Q. Do you recall receiving this
19 e-mail and article?

20 A. No.

21 Q. Do you recognize the e-mail or
22 the article?

23 A. No.

24 Q. Do you have any reason to believe

1 Q. Do you know whether this article
2 was used as a detail piece or leave-behind by
3 Actavis at any time?

4 MS. ZOLNER: Objection, form.

5 THE WITNESS: No.

6 BY MR. MELAMED:

7 Q. Just I asked a compound question,
8 I just want to make sure I understand your no.

9 Do you know whether Actavis ever
10 used this article as a detail piece?

11 A. I do not believe so, no.

12 Q. Do you know whether Actavis ever
13 used this article as a leave-behind?

14 A. I do not believe they did, no.

15 Q. Do you have any understanding why
16 Jinping McCormick forwarded this article to you?

17 A. Because I was responsible for
18 advertising and collateral marketing pieces.
19 She may have sent it to me for my review.

20 Q. Did you -- do you recall
21 discussing this with Jinping McCormick?

22 A. No, I don't.

23 Q. Do you recall discussing this
24 with anybody else?

<p style="text-align: right;">Page 289</p> <p>1 A. No.</p> <p>2 MS. MAHONEY: Objection.</p> <p>3 THE WITNESS: No.</p> <p>4 BY MR. MELAMED:</p> <p>5 Q. If you turn to page -- the</p> <p>6 pagination on the article is 112. It's at Bates</p> <p>7 number ending 4577. I want to just draw your</p> <p>8 attention to a couple of sentences. There's a</p> <p>9 paragraph in the middle column that starts</p> <p>10 towards -- two-thirds of the way down the page</p> <p>11 that starts "chronic use of opioids."</p> <p>12 Do you see that paragraph?</p> <p>13 A. Yes.</p> <p>14 Q. It's the first paragraph says,</p> <p>15 "chronic use of opioids for non-cancer pain may</p> <p>16 be associated with a risk for opioid abuse."</p> <p>17 Do you see that?</p> <p>18 A. I do.</p> <p>19 Q. Do you know if the marketing</p> <p>20 materials you oversaw the creation of for</p> <p>21 Actavis concerning any of its opioids contained</p> <p>22 a warning that chronic use of opioids for</p> <p>23 non-cancer pain may be associated with a risk</p> <p>24 for opioid abuse?</p>	<p style="text-align: right;">Page 290</p> <p>1 MS. MAHONEY: Objection.</p> <p>2 THE WITNESS: I don't know if</p> <p>3 that exact quote was used in our</p> <p>4 materials.</p> <p>5 BY MR. MELAMED:</p> <p>6 Q. The next sentence says, "With</p> <p>7 chronic opioid use, rates of abuse have been</p> <p>8 reported to range from 18% to 41%."</p> <p>9 Do you see that?</p> <p>10 A. Yes, I see it.</p> <p>11 Q. Do you know if there was a</p> <p>12 reference in any of the advertising materials</p> <p>13 you oversaw for Actavis opioids to rates of</p> <p>14 abuse reported for chronic opioid use reported</p> <p>15 to range from 18% to 41%?</p> <p>16 MS. ZOLNER: Objection to form.</p> <p>17 MS. MAHONEY: Objection.</p> <p>18 THE WITNESS: Not that I recall.</p> <p>19 BY MR. MELAMED:</p> <p>20 Q. Further down the paragraph it</p> <p>21 states, several factors or characteristics</p> <p>22 associated with an increased risk for opioid</p> <p>23 abuse have been identified, including younger</p> <p>24 age, multiple healthcare visits (greater than 20</p>
<p style="text-align: right;">Page 291</p> <p>1 per year), a history of nonopioid substance</p> <p>2 abuse, a mental health diagnosis receiving --</p> <p>3 I'm sorry, comma, receiving more than 200 days</p> <p>4 -- 210 days supply of opioids, marital status</p> <p>5 (separated, divorced, or single), and</p> <p>6 African-American race.</p> <p>7 Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. Do you know whether any of the</p> <p>10 advertising materials you oversaw the creation</p> <p>11 of for Actavis concerning its opioids warned of</p> <p>12 increased risk of opioid abuse due to younger</p> <p>13 age?</p> <p>14 MS. MAHONEY: Objection.</p> <p>15 MS. ZOLNER: Objection, form.</p> <p>16 THE WITNESS: I do not know.</p> <p>17 BY MR. MELAMED:</p> <p>18 Q. Do you know whether any of the</p> <p>19 advertising materials you oversaw the creation</p> <p>20 of for Actavis concerning Actavis opioids warned</p> <p>21 of increased risk of -- for opioid abuse</p> <p>22 resulting from multiple healthcare visits</p> <p>23 greater than 20 per year?</p> <p>24 MS. MAHONEY: Objection.</p>	<p style="text-align: right;">Page 292</p> <p>1 THE WITNESS: I do not know.</p> <p>2 BY MR. MELAMED:</p> <p>3 Q. Do you know whether any of the</p> <p>4 advertising materials you oversaw the creation</p> <p>5 of for Actavis concerning Actavis opioids warned</p> <p>6 of increased risk for opioid abuse resulting</p> <p>7 from a history of nonopioid substance abuse?</p> <p>8 MS. MAHONEY: Objection.</p> <p>9 THE WITNESS: I do not know.</p> <p>10 BY MR. MELAMED:</p> <p>11 Q. Do you know whether any of the</p> <p>12 advertising materials you oversaw the creation</p> <p>13 of for Actavis concerning its opioids warned of</p> <p>14 increased risk for opioid abuse where patients</p> <p>15 had a mental health diagnosis?</p> <p>16 MS. ZOLNER: Objection to form.</p> <p>17 MS. MAHONEY: Objection.</p> <p>18 THE WITNESS: I do not know.</p> <p>19 BY MR. MELAMED:</p> <p>20 Q. Do you know whether any of the</p> <p>21 advertising materials you oversaw the creation</p> <p>22 of for Actavis concerning its opioids warned of</p> <p>23 increased risk of opioid abuse due to receiving</p> <p>24 more than 210 days supply of opioids?</p>

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1 MS. ZOLNER: Objection to form.
 2 MS. MAHONEY: Objection.
 3 THE WITNESS: I do not know.
 4 BY MR. MELAMED:
 5 Q. Do you know whether any of the
 6 advertising materials you oversaw the creation
 7 of for Actavis concerning its opioids warned of
 8 increased risk of opioids -- opioid abuse due to
 9 marital status being separated, divorced or
 10 single?
 11 MS. MAHONEY: Objection.
 12 THE WITNESS: I do not know.
 13 BY MR. MELAMED:
 14 Q. Do you know whether any of the
 15 advertising materials you oversaw the creation
 16 of for Actavis concerning its opioids warned of
 17 increased risk of opioid abuse for patients who
 18 are African-American?
 19 MS. MAHONEY: Objection.
 20 MS. ZOLNER: Objection to form.
 21 THE WITNESS: I do not know.
 22 BY MR. MELAMED:
 23 Q. For each of those when you say
 24 you don't know, you don't recall one way or the

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1 other whether the advertising you oversaw
 2 concerning Actavis opioids included warnings as
 3 to any of those factors; is that correct?
 4 MS. MAHONEY: Objection.
 5 THE WITNESS: I do not recall if
 6 it included those warnings for those
 7 exact.
 8 BY MR. MELAMED:
 9 Q. In your opinion, should such
 10 warnings have been included in Actavis
 11 advertising for its opioids?
 12 MS. MAHONEY: Objection.
 13 MS. ZOLNER: Objection, form,
 14 foundation.
 15 THE WITNESS: That's outside of
 16 my scope of expertise.
 17 BY MR. MELAMED:
 18 Q. So you have no opinion either way
 19 whether such warnings should have been included?
 20 MS. MAHONEY: Objection.
 21 MS. ZOLNER: Objection, form.
 22 THE WITNESS: I have no opinion
 23 on that. It's not -- I'm not the
 24 subject matter expert on that.

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1 BY MR. MELAMED:
 2 Q. Are you aware of a current opioid
 3 addiction crisis in the United States?
 4 MS. ZOLNER: Objection, form.
 5 MS. MAHONEY: Objection.
 6 THE WITNESS: I'm not sure about
 7 the word crisis. I understand from
 8 reading the news that there are -- is a
 9 segment of the population, smaller
 10 segment that it is a possibility that
 11 they can become addicted.
 12 BY MR. MELAMED:
 13 Q. Do you have any understanding
 14 about estimates of the number of opioid addicts
 15 currently in the United States?
 16 MS. ZOLNER: Objection to form.
 17 MS. MAHONEY: Objection.
 18 THE WITNESS: No, I do not.
 19 BY MR. MELAMED:
 20 Q. Has the opioid -- has opioid
 21 addiction affected anyone in your family?
 22 MS. ZOLNER: Objection, form.
 23 THE WITNESS: Remotely.
 24 BY MR. MELAMED:

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1 Q. Do you know the opioid to which
 2 that family member is addicted?
 3 MS. MAHONEY: Objection.
 4 MS. ZOLNER: Objection to form.
 5 THE WITNESS: No, I do not.
 6 BY MR. MELAMED:
 7 Q. You mentioned before where you
 8 live. I'm sorry, I've forgotten. Can you name
 9 the town you live in?
 10 A. Maplewood, New Jersey.
 11 Q. Has opioid addiction affected --
 12 to your knowledge, affected Maplewood, New
 13 Jersey and its residents?
 14 MS. MAHONEY: Objection.
 15 THE WITNESS: I don't know.
 16 BY MR. MELAMED:
 17 Q. Do you know if anyone you worked
 18 with at Actavis became addicted to opioids?
 19 A. Not that I'm aware of.
 20 MS. ZOLNER: Objection, form.
 21 THE WITNESS: Not that I'm aware
 22 of.
 23 BY MR. MELAMED:
 24 Q. What about at Teva?

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1 MS. MAHONEY: Objection.
 2 MS. ZOLNER: Objection, form.
 3 THE WITNESS: Not that I'm aware
 4 of.
 5 (Document marked for
 6 identification as Myers Deposition
 7 Exhibit No. 20.)
 8 BY MR. MELAMED:
 9 Q. I'm going to hand you what's been
 10 marked as Exhibit 20.
 11 Exhibit 20 is an e-mail and
 12 attachments. The e-mail is from David Myers to
 13 Michael Perfetto, cc'ing Jinping McCormick,
 14 August 26, 2011. The subject is "Oxymorphone
 15 Promotion and chargeback results to date."
 16 And then it contains what appear
 17 to be two separate attachments. The Bates range
 18 is ALLERGAN_MDL_00508576 to 8579.
 19 Do you recognize this e-mail and
 20 the attached documents?
 21 MS. MAHONEY: 8579?
 22 MR. MELAMED: I'm sorry, 8580.
 23 8580 is a blank page. Thank you for the
 24 correction.

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1 Do you see that?
 2 A. Yes.
 3 Q. So if you could flip to the
 4 document labeled -- with the Bates number ending
 5 8579.
 6 Does this appear to be the Word
 7 document to which you were referring?
 8 A. I believe so.
 9 Q. So we've -- this document appears
 10 to mention several promotional activities that
 11 we've already discussed today, such as the two
 12 wave direct mail campaign, correct?
 13 A. Yes.
 14 Q. And it indicates now that that
 15 two wave campaign, the first wave had been
 16 completed as of August 9th, 2011.
 17 Do you see that?
 18 A. Yes.
 19 Q. And the second wave was planned
 20 for the week of September 6th, 2011?
 21 A. Yes.
 22 Q. And then we've also discussed
 23 advertising. Here you discuss two
 24 advertisements, one that had been placed on

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1 THE WITNESS: No, I do not
 2 recognize the e-mail.
 3 BY MR. MELAMED:
 4 Q. Do you have any reason to doubt
 5 that you sent the e-mail and the documents
 6 attached to it to Mr. Perfetto and Ms. McCormick
 7 on or around August 26th, 2011?
 8 MS. ZOLNER: Objection, form.
 9 THE WITNESS: No.
 10 BY MR. MELAMED:
 11 Q. And this e-mail and the
 12 attachments concerned your work at Actavis,
 13 correct?
 14 MS. MAHONEY: Objection.
 15 THE WITNESS: Yes.
 16 BY MR. MELAMED:
 17 Q. They were not personal, correct?
 18 MS. MAHONEY: Objection.
 19 THE WITNESS: No.
 20 BY MR. MELAMED:
 21 Q. Your e-mail states that you've
 22 "attached Word document which outlines
 23 promotional activities in relation to
 24 oxymorphone."

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1 pharmacy -- in Pharmacy Times in the August 2011
 2 issue.
 3 Do you see that?
 4 A. Yes.
 5 Q. And then one ad that had been
 6 placed in Practical Pain Management in the
 7 August 2011 issue and presumably the forthcoming
 8 October 2011 issue?
 9 MS. ZOLNER: Objection, form.
 10 BY MR. MELAMED:
 11 Q. Do you see that?
 12 A. Yes.
 13 Q. Do you know whether that
 14 October 2011 ad was placed?
 15 A. I don't recall if it was.
 16 Q. Okay. The next item you mention
 17 is an e-mail campaign reaching a pharmacy
 18 audience of 87,000 addresses.
 19 Do you see that?
 20 A. Yes.
 21 Q. Where did you get those e-mail
 22 addresses?
 23 MS. MAHONEY: Objection.
 24 THE WITNESS: I don't recall.

1 BY MR. MELAMED:
2 Q. Do you recall whether you were
3 the person responsible for acquiring those
4 e-mail addresses?
5 MS. MAHONEY: Objection.
6 THE WITNESS: I don't recall.
7 BY MR. MELAMED:
8 Q. Then you include a category it
9 says "Customer Campaigns."
10 Do you see that?
11 A. Yes.
12 Q. Okay. First says NC Mutual -
13 sell sheet will be distributed to their of their
14 approximately 500 pharmacy customers.
15 Do you see that?
16 A. Yes.
17 Q. How did that customer campaign
18 come about, if you know?
19 MS. MAHONEY: Objection.
20 THE WITNESS: I don't remember.
21 BY MR. MELAMED:
22 Q. The next one is "Premier -
23 electronic sell sheet sent to each of their
24 facilities."

1 A. Yes.
2 Q. The third bullet mentions
3 MedAssets?
4 A. Yes.
5 Q. And you describe the same
6 distribution of an electronic sell sheet to each
7 of its facility, correct?
8 A. Yes.
9 Q. And so the answer you provided
10 for what was meant by that in response to the
11 bullet point starting Premier also applies to
12 MedAssets; is that right?
13 MS. MAHONEY: Objection.
14 THE WITNESS: Yes.
15 BY MR. MELAMED:
16 Q. The fourth bullet point mentions
17 Anda. At this point in time Anda was owned by
18 Actavis, correct?
19 A. I believe so.
20 Q. And you mention telemarketing
21 promotion through Anda's call center.
22 Do you know if the telemarketing
23 promotion included a script?
24 MS. MAHONEY: Objection.

1 Do you know what is meant by
2 "electronic sell sheet sent to each of their
3 facilities"?
4 MS. ZOLNER: Objection, form.
5 THE WITNESS: I believe it was an
6 electronic version of our approved sell
7 sheet that we sent to them and they sent
8 out to their member pharmacies.
9 BY MR. MELAMED:
10 Q. And what is Premier?
11 A. Premier is a group purchasing
12 organization, pharmaceutical.
13 Q. Was it -- do you know how much --
14 let me withdraw that.
15 Do you know the approximate value
16 of their purchases from Actavis on the -- for
17 the year 2011?
18 MS. MAHONEY: Objection.
19 THE WITNESS: No.
20 BY MR. MELAMED:
21 Q. What is NC Mutual?
22 A. NC Mutual is another drug
23 distributor.
24 Q. NC stand for North Carolina?

1 MS. ZOLNER: Objection.
2 BY MR. MELAMED:
3 Q. And by "script" I don't mean a
4 prescription, I mean a written script for what
5 telemarketers would say.
6 MS. ZOLNER: Objection, form.
7 MS. MAHONEY: Objection.
8 THE WITNESS: I don't remember.
9 BY MR. MELAMED:
10 Q. Do you know who oversaw that
11 telemarketing promotion through Anda's call
12 center?
13 MS. MAHONEY: Objection.
14 THE WITNESS: I do not, no.
15 BY MR. MELAMED:
16 Q. It says that "Telemarketers are
17 financially incentivized to promote
18 oxymorphone."
19 Do you recall the nature of that
20 financial incentive?
21 MS. ZOLNER: Objection.
22 MS. MAHONEY: Objection.
23 THE WITNESS: I do not.
24 BY MR. MELAMED:

1 Q. Do you know who would?
2 MS. MAHONEY: Objection.
3 THE WITNESS: I do not.
4 BY MR. MELAMED:
5 Q. The next bullet point concerns
6 K-Mart. That's -- is that a reference to the
7 retail chain K-Mart that also has pharmacies?
8 A. Pharmacies, yes.
9 Q. The next one is to Safeway,
10 similarly, that is the grocery store that also
11 has pharmacies, correct?
12 MS. MAHONEY: Objection.
13 THE WITNESS: Yes.
14 BY MR. MELAMED:
15 Q. The next bullet point is to
16 Costco, that is the big box retailer that also
17 has pharmacies; is that right?
18 MS. ZOLNER: Object to the form.
19 THE WITNESS: Yes.
20 BY MR. MELAMED:
21 Q. Do you understand what I mean by
22 big box retailer?
23 A. Yes.
24 Q. The next bullet point mentions

1 Hi-School Pharmacy.
2 Do you know what Hi-School
3 Pharmacy is?
4 A. I believe that they were also a
5 pharmaceutical distributor.
6 Q. Do you know did they have a
7 geographic location?
8 MS. MAHONEY: Objection.
9 THE WITNESS: I don't remember.
10 BY MR. MELAMED:
11 Q. HD -- what is HD Smith?
12 A. They were a pharmaceutical
13 distributor.
14 Q. And here it mentions for HD Smith
15 that a blast fax was sent to each account
16 announcing launch of oxymorphone.
17 Do you know who -- what team
18 was -- let me withdraw that.
19 Do you know whether that blast
20 fax was sent by HD Smith to its accounts?
21 MS. MAHONEY: Objection.
22 THE WITNESS: Could you -- could
23 you clarify the question.
24 BY MR. MELAMED:

1 Q. Sure. I'm trying to figure out
2 whether Actavis sent a blast fax to each HD
3 Smith account or whether HD Smith sent a blast
4 fax to each of its accounts, if you know?
5 MS. MAHONEY: Objection.
6 THE WITNESS: That would not have
7 been something that Actavis took part
8 in. That would be something that HD
9 Smith would have executed.
10 BY MR. MELAMED:
11 Q. So it's your understanding that
12 HD Smith itself sent the blast fax that's
13 referred to here?
14 MS. MAHONEY: Objection.
15 THE WITNESS: If it indeed
16 happened, yes.
17 BY MR. MELAMED:
18 Q. Okay. Do you know who provided
19 the content for it to send the blast fax?
20 MS. MAHONEY: Objection.
21 THE WITNESS: I don't recall.
22 BY MR. MELAMED:
23 Q. And then there's a sub-bullet
24 point for that one says "Telemarketing team

1 targeting accounts that have previously ordered
2 Opana ER."
3 Do you know for whom that
4 telemarketing team referenced in that sub-bullet
5 point marked?
6 MS. ZOLNER: Objection.
7 MS. MAHONEY: Objection.
8 THE WITNESS: I believe it was HD
9 Smith.
10 BY MR. MELAMED:
11 Q. The next bullet point is
12 McKesson, says "will use telemarketer to call
13 500 independent pharmacies with highest script
14 history and provide incentives," and it
15 describes the incentives, "to pharmacies on
16 first order."
17 Do you see that?
18 MS. MAHONEY: Objection.
19 THE WITNESS: I do.
20 MR. LOVRIEN: Counsel, can I just
21 ask you to move up your exhibit.
22 MR. MELAMED: Yes.
23 MR. LOVRIEN: Thank you.
24 MR. MELAMED: Good?

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1 MR. LOVRIEN: Yeah, thank you.
 2 BY MR. MELAMED:
 3 Q. Did Actavis incentivize McKesson
 4 to undertake the action described here?
 5 MS. MAHONEY: Objection.
 6 THE WITNESS: I don't know.
 7 BY MR. MELAMED:
 8 Q. Do you know if Actavis was
 9 providing the financial incentives or -- let me
 10 withdraw that.
 11 Do you know if Actavis was
 12 required to reimburse McKesson for the
 13 incentives that are described in this bullet
 14 point?
 15 MS. MAHONEY: Objection.
 16 MS. ZOLNER: Objection to form.
 17 THE WITNESS: I don't know.
 18 BY MR. MELAMED:
 19 Q. The next bullet point is Rite
 20 Aid, said "provided store level incentive to top
 21 volume stores (\$30 off first order)."
 22 Do you see that?
 23 A. I do.
 24 Q. Do you know whether Actavis was

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1 required to pay Rite Aid back for any portion of
 2 the incentives Rite Aid provided its top volume
 3 stores?
 4 MS. MAHONEY: Objection.
 5 THE WITNESS: I don't know.
 6 BY MR. MELAMED:
 7 Q. The final bullet point says
 8 "Walgreens - met Walgreens marketing team,
 9 currently analyzing promotional campaign
 10 options."
 11 Do you see that?
 12 A. Yes.
 13 Q. Do you recall that meeting?
 14 MS. MAHONEY: Objection.
 15 THE WITNESS: Vaguely.
 16 BY MR. MELAMED:
 17 Q. Do you recall that any
 18 promotional campaign options as being
 19 contemplated in that meeting were taken
 20 regarding oxymorphone?
 21 A. I don't recall if that meeting
 22 resulted in any campaigns being run through
 23 Walgreens.
 24 Q. Do you know if Walgreens ever ran

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1 any campaigns related to Actavis and
 2 oxymorphone?
 3 A. I don't know.
 4 Q. If you return to the e-mail at
 5 the front of the exhibit, the last sentence
 6 states, "Additionally, I have attached the
 7 chargeback results to date."
 8 Do you see that?
 9 A. Yes.
 10 Q. What are chargebacks?
 11 A. A chargeback is a way that we
 12 have of measuring sales out to -- it's
 13 complicated. Let me think about my phrasing.
 14 Oftentimes when we sell a product
 15 out, we sell it at wholesale acquisition cost,
 16 which is a standard cost that's published. When
 17 we have subcontracts for other companies, like
 18 say Walmart and Walmart went to a wholesaler and
 19 bought a bottle, they would pay the contract
 20 price, and we would reimburse the wholesaler the
 21 difference. They're acting mainly as an
 22 intermediary between us.
 23 Q. Who would -- sorry, go ahead.
 24 A. A chargeback shows a sales out to

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1 a subaccount.
 2 Q. You said they acted mainly as an
 3 intermediary between us. In that scenario that
 4 you described, who was acting as the
 5 intermediary between whom?
 6 A. It could --
 7 MS. MAHONEY: Objection.
 8 THE WITNESS: It could be any
 9 wholesaler/distributor.
 10 BY MR. MELAMED:
 11 Q. Any wholesaler/distributor would
 12 be the intermediary?
 13 A. Possibly, yes.
 14 Q. I'm just trying to understand how
 15 chargeback works -- how chargebacks work.
 16 It appears you're looking at the
 17 page that contains the spreadsheet titled Charge
 18 Back Details since launch July 15th, 2011; is
 19 that correct?
 20 A. Yes.
 21 Q. And that's -- this is in Exhibit
 22 20.
 23 Can you -- do you understand the
 24 meaning of the information reflected on this

<p style="text-align: right;">Page 313</p> <p>1 spreadsheet?</p> <p>2 A. Yes, vaguely.</p> <p>3 Q. You put the spreadsheet together;</p> <p>4 is that right?</p> <p>5 MS. MAHONEY: Objection.</p> <p>6 THE WITNESS: I believe so.</p> <p>7 BY MR. MELAMED:</p> <p>8 Q. You sent it on?</p> <p>9 MS. MAHONEY: Objection.</p> <p>10 THE WITNESS: Yes.</p> <p>11 BY MR. MELAMED:</p> <p>12 Q. So looking at the spreadsheet,</p> <p>13 can you describe what you mean by "CARS Prod</p> <p>14 Group Dimension" in the top left?</p> <p>15 A. CARS was a system that managed</p> <p>16 our contracts and chargebacks, so that's an</p> <p>17 internal system. I don't know if it's a third</p> <p>18 party software.</p> <p>19 Q. And so all of the chargebacks</p> <p>20 were recorded in CARS?</p> <p>21 A. I believe so.</p> <p>22 Q. And do you know how long you used</p> <p>23 CARS?</p> <p>24 A. I do not.</p>	<p style="text-align: right;">Page 314</p> <p>1 Q. Does Teva still use CARS?</p> <p>2 MS. ZOLNER: Objection, form.</p> <p>3 Objection, foundation.</p> <p>4 THE WITNESS: I don't believe so.</p> <p>5 BY MR. MELAMED:</p> <p>6 Q. Was there a point in time at</p> <p>7 which Actavis stopped using CARS to record</p> <p>8 charge backs?</p> <p>9 MS. ZOLNER: Objection, form.</p> <p>10 THE WITNESS: I don't recall.</p> <p>11 BY MR. MELAMED:</p> <p>12 Q. So it says CARS -- below the</p> <p>13 header "CARS Prod Group Dimension," it says</p> <p>14 "Cars Item (2/2)."</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. Do you know what that refers to?</p> <p>18 A. Yes.</p> <p>19 Q. And what is that?</p> <p>20 A. I have selected two products for</p> <p>21 review.</p> <p>22 Q. So the items being referenced</p> <p>23 there are the oxymorphone 15-milligram tablets</p> <p>24 and the oxymorphone 7.5-milligram tablets,</p>
<p style="text-align: right;">Page 315</p> <p>1 correct?</p> <p>2 A. Yes.</p> <p>3 Q. And then the oxymorphone line</p> <p>4 below, if you go to the right, reflects the</p> <p>5 total number of chargeback units for those two</p> <p>6 items for the time period defined; is that</p> <p>7 correct?</p> <p>8 A. Yes.</p> <p>9 Q. And then the subsequent part of</p> <p>10 the spreadsheet breaks down the chargebacks on</p> <p>11 a -- what appears to be a distributor by</p> <p>12 distributor basis; is that correct?</p> <p>13 MS. MAHONEY: Objection.</p> <p>14 MS. ZOLNER: Objection, form.</p> <p>15 THE WITNESS: It appears that</p> <p>16 way.</p> <p>17 BY MR. MELAMED:</p> <p>18 Q. So Walmart here is listed as</p> <p>19 having 284 chargeback units; is that correct?</p> <p>20 A. Yes.</p> <p>21 Q. And so -- and this is for the</p> <p>22 period July 15th to August 19th, 2011, right?</p> <p>23 A. Yes.</p> <p>24 Q. What is the effective Walmart --</p>	<p style="text-align: right;">Page 316</p> <p>1 let me withdraw that.</p> <p>2 Does that mean Actavis is making</p> <p>3 a payment to Walmart for 284 different sales</p> <p>4 that Walmart made of Actavis oxymorphone?</p> <p>5 A. Could you repeat that.</p> <p>6 Q. Sure. Does that mean that</p> <p>7 Actavis is paying Walmart to make up the</p> <p>8 difference between the wholesale price and a</p> <p>9 different price for 284 transactions in which</p> <p>10 Walmart took part?</p> <p>11 MS. MAHONEY: Objection.</p> <p>12 THE WITNESS: No.</p> <p>13 BY MR. MELAMED:</p> <p>14 Q. Can you explain to me what that</p> <p>15 means, what does the 284 next to Walmart mean?</p> <p>16 A. Yes. The 284 units mean that</p> <p>17 Walmart had purchased 284 units from one of the</p> <p>18 four wholesalers listed below, at the bottom of</p> <p>19 the form where it says CARS wholesale group.</p> <p>20 Q. And what was the effect on</p> <p>21 Actavis of Walmart having purchased 284 units</p> <p>22 from one of the four wholesalers listed in the</p> <p>23 CARS wholesaler group?</p> <p>24 MS. MAHONEY: Objection.</p>

<p style="text-align: right;">Page 317</p> <p>1 THE WITNESS: We would reimburse</p> <p>2 whoever they purchased those units from</p> <p>3 for the difference between their</p> <p>4 contract price and the price that they</p> <p>5 paid.</p> <p>6 BY MR. MELAMED:</p> <p>7 Q. That's helpful. I just want to</p> <p>8 understand a few words you used in that</p> <p>9 sentence. You said we would reimburse whoever</p> <p>10 they purchased those units from, that "they" is</p> <p>11 referencing Walmart in this example, correct?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. So we would reimburse</p> <p>14 whoever Walmart purchased those 284 units from</p> <p>15 for the difference between their contract price</p> <p>16 and the price that they paid.</p> <p>17 Whose contract price?</p> <p>18 A. Walmart's.</p> <p>19 Q. And the price that who paid?</p> <p>20 A. The wholesaler that they</p> <p>21 purchased it from.</p> <p>22 Q. Okay. So just to make sure I</p> <p>23 have this clear, and please correct me if it's</p> <p>24 wrong, Actavis would reimburse whoever Walmart</p>	<p style="text-align: right;">Page 318</p> <p>1 purchased the 284 units from for the difference</p> <p>2 between Walmart's contract price and the price</p> <p>3 that the wholesaler paid for those drugs?</p> <p>4 MS. MAHONEY: Objection.</p> <p>5 THE WITNESS: Yes.</p> <p>6 BY MR. MELAMED:</p> <p>7 Q. And in order to receive these</p> <p>8 reimbursement payments, were the wholesalers</p> <p>9 required to provide Actavis the specific</p> <p>10 information about who purchased the units for</p> <p>11 which the wholesalers were seeking chargeback</p> <p>12 payments?</p> <p>13 A. I believe so.</p> <p>14 (Document marked for</p> <p>15 identification as Myers Deposition</p> <p>16 Exhibit No. 21.)</p> <p>17 BY MR. MELAMED:</p> <p>18 Q. Handing you what's been marked</p> <p>19 Exhibit 21.</p> <p>20 Exhibit 21 is an e-mail from</p> <p>21 David Myers to a group of recipients on</p> <p>22 September 27th, 2011, subject, "Oxymorphone</p> <p>23 Promotion at McKesson."</p> <p>24 Do you recognize this document?</p>
<p style="text-align: right;">Page 319</p> <p>1 A. No, I do not.</p> <p>2 Q. Do you have any reason to</p> <p>3 believe -- let me rephrase that.</p> <p>4 Do you have any reason to doubt</p> <p>5 that you sent this document?</p> <p>6 A. No, I do not.</p> <p>7 Q. This document related to your</p> <p>8 work at Actavis, correct?</p> <p>9 A. Yes.</p> <p>10 Q. Do you recall what is referred --</p> <p>11 what you referred to here as "a two-part</p> <p>12 oxymorphone marketing program with McKesson Drug</p> <p>13 Company"?</p> <p>14 A. Let me read the document, so I</p> <p>15 can understand the context.</p> <p>16 Q. Sure.</p> <p>17 A. (Witness reviews document.)</p> <p>18 MR. LOVRIEN: While he's doing</p> <p>19 that, maybe I missed it, but can we get</p> <p>20 a Bates number for the record.</p> <p>21 MR. MELAMED: Sure. I may not</p> <p>22 have said it. For the record, the Bates</p> <p>23 number for Exhibit 21 is</p> <p>24 ACTAVIS06220892090.</p>	<p style="text-align: right;">Page 320</p> <p>1 BY MR. MELAMED:</p> <p>2 Q. Do you recall the two-part</p> <p>3 oxymorphone marketing program with McKesson that</p> <p>4 is referenced in this e-mail?</p> <p>5 MS. MAHONEY: Objection.</p> <p>6 THE WITNESS: I do not.</p> <p>7 BY MR. MELAMED:</p> <p>8 Q. Do you understand what's meant in</p> <p>9 the online bullet point by "a two-week</p> <p>10 advertising campaign on McKesson Connect"?</p> <p>11 A. I believe so.</p> <p>12 Q. And what's your understanding of</p> <p>13 that?</p> <p>14 A. I believe that McKesson has an</p> <p>15 ordering portal for their customers, their</p> <p>16 pharmacy customers, and you can put banner ads</p> <p>17 on that to highlight your product.</p> <p>18 Q. Do you recall whether Actavis</p> <p>19 paid to place those banner ads on McKesson's</p> <p>20 ordering portal?</p> <p>21 A. I do not recall.</p> <p>22 Q. There's a second bullet point</p> <p>23 that says "Phone Awareness Campaign." It says</p> <p>24 "McKesson's team of dedicated generics</p>

<p style="text-align: right;">Page 321</p> <p>1 specialists, GenericsConnect, will be contacting</p> <p>2 a targeted pool of 200 retail independent</p> <p>3 pharmacies with significant Opana ER brand sales</p> <p>4 beginning the week of September 26th."</p> <p>5 And it continues, "each</p> <p>6 GenericsConnect specialist has a regular series</p> <p>7 of ongoing conversations with the same customer</p> <p>8 base, and promotional awareness of Actavis'</p> <p>9 oxymorphone is being incorporated into their</p> <p>10 outbound messaging during this campaign period."</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. Do you recall whether Actavis</p> <p>14 compensated McKesson for the phone awareness</p> <p>15 campaign described in the second bullet point?</p> <p>16 MS. MAHONEY: Objection.</p> <p>17 MS. ZOLNER: Objection to form.</p> <p>18 THE WITNESS: I do not know.</p> <p>19 BY MR. MELAMED:</p> <p>20 Q. You don't know whether they paid</p> <p>21 either way?</p> <p>22 MS. MAHONEY: Objection.</p> <p>23 THE WITNESS: I do not know.</p> <p>24 BY MR. MELAMED:</p>	<p style="text-align: right;">Page 322</p> <p>1 Q. Do you recall having discussions</p> <p>2 with anyone from McKesson about either of these</p> <p>3 marketing programs?</p> <p>4 MS. MAHONEY: Objection.</p> <p>5 MS. ZOLNER: Objection, form.</p> <p>6 THE WITNESS: I do not recall.</p> <p>7 BY MR. MELAMED:</p> <p>8 Q. Did you regularly have</p> <p>9 discussions with McKesson about marketing</p> <p>10 Actavis' generic drugs?</p> <p>11 A. No.</p> <p>12 Q. Other than this instance, do you</p> <p>13 recall any other instance where McKesson ran a</p> <p>14 marketing program on behalf of an Actavis drug?</p> <p>15 MS. MAHONEY: Objection.</p> <p>16 MS. ZOLNER: Objection, form.</p> <p>17 THE WITNESS: It's possible.</p> <p>18 BY MR. MELAMED:</p> <p>19 Q. Do you recall any, as you sit</p> <p>20 here today?</p> <p>21 A. Not specifically.</p> <p>22 (Document marked for</p> <p>23 identification as Myers Deposition</p> <p>24 Exhibit No. 22.)</p>
<p style="text-align: right;">Page 323</p> <p>1 BY MR. MELAMED:</p> <p>2 Q. Handing you what's been marked</p> <p>3 Exhibit 22.</p> <p>4 Exhibit 22 is an e-mail and</p> <p>5 attachment thereto from David Myers to Dorothy</p> <p>6 McEntee and several others cc'd, October 5th,</p> <p>7 2011, subject, forward, "Fentanyl Ad." It</p> <p>8 starts at Bates number ACTAVIS0343310 and</p> <p>9 continues to 3321.</p> <p>10 Do you recall this document?</p> <p>11 A. I do not.</p> <p>12 Q. Do you have any reason to believe</p> <p>13 that you did not send the e-mail and attachments</p> <p>14 thereto?</p> <p>15 MS. ZOLNER: Objection, form.</p> <p>16 MS. MAHONEY: Objection.</p> <p>17 THE WITNESS: No.</p> <p>18 BY MR. MELAMED:</p> <p>19 Q. Do you have any reason to believe</p> <p>20 you didn't send this e-mail?</p> <p>21 MS. MAHONEY: Objection.</p> <p>22 THE WITNESS: No.</p> <p>23 BY MR. MELAMED:</p> <p>24 Q. Do you have any reason to believe</p>	<p style="text-align: right;">Page 324</p> <p>1 you didn't circulate these attachments?</p> <p>2 A. No.</p> <p>3 Q. These communications concern your</p> <p>4 work, your job responsibilities at Actavis,</p> <p>5 correct?</p> <p>6 MS. ZOLNER: Objection, form.</p> <p>7 MS. MAHONEY: Objection.</p> <p>8 THE WITNESS: Yes.</p> <p>9 BY MR. MELAMED:</p> <p>10 Q. And what I mean when I say that</p> <p>11 is they were undertaken as part of your job</p> <p>12 responsibilities; do you understand that?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. The e-mail concerns or</p> <p>15 mentions that Actavis is planning to once again</p> <p>16 advertise fentanyl in 2012.</p> <p>17 Do you see that?</p> <p>18 MS. MAHONEY: Objection.</p> <p>19 MS. ZOLNER: Object to form.</p> <p>20 THE WITNESS: I do see it.</p> <p>21 BY MR. MELAMED:</p> <p>22 Q. And there are a series of</p> <p>23 asterisks following a sentence that says, "Can</p> <p>24 you please make the following changes to the</p>

1 advertisement."
 2 Do you see that?
 3 A. Yes.
 4 Q. The final change says, change
 5 more than 8 million patches sold long to be more
 6 than 20 million patches -- more than 20 million.
 7 Do you see that?
 8 A. I do.
 9 Q. Is that because by October 5th,
 10 2011, Actavis had sold more than 20 million
 11 fentanyl patches?
 12 A. I believe that would be the case.
 13 (Document marked for
 14 identification as Myers Deposition
 15 Exhibit No. 23.)
 16 BY MR. MELAMED:
 17 Q. Handing you what's been marked
 18 Exhibit 23.
 19 Exhibit 23 is e-mail string and
 20 attachment, e-mail most recent in time is from
 21 Heather Alonso to David Myers, cc'ing Joanne
 22 Terzides sent January 18th, 2012, begins at
 23 ACTAVIS0618579 and continues through 8584.
 24 Do you recognize this document?

1 mailing list to the top 6,000 doctors (we
 2 provide the list), but doing three waves instead
 3 of two. Can you please provide another quote
 4 for a 3-wave mailing program with 6,000 names in
 5 each wave?"
 6 Do you see that?
 7 A. I do.
 8 Q. Do you recall discussing this
 9 three-wave mailing to the top 6,000 doctors?
 10 A. No.
 11 Q. Based on earlier document --
 12 earlier documents we looked at or discussions,
 13 we talked about a two-wave mailing campaign to
 14 the top 10,000 prescribers of Opana ER.
 15 Do you recall that?
 16 A. Yes.
 17 Q. This e-mail is dated subsequent
 18 to the completion of that two-wave campaign to
 19 the top 10,000 Opana prescribers; is that
 20 correct?
 21 A. Forgetting the date of launch was
 22 July 2011?
 23 Q. If you look back at Exhibit --
 24 I'm sorry I don't have the number -- 20 and the

1 A. No, I do not.
 2 Q. Do you have any reason to believe
 3 you did not send the e-mails that say they are
 4 from David Myers in the string of e-mails
 5 reflected here?
 6 A. I do not.
 7 Q. Do you have any reason to believe
 8 you did not receive the e-mails that were sent
 9 to David Myers reflected in this string?
 10 A. I do not.
 11 Q. And these -- the content of these
 12 e-mails concerned your responsibility as an
 13 employee of Actavis; is that correct?
 14 MS. MAHONEY: Objection.
 15 THE WITNESS: Yes, yes.
 16 BY MR. MELAMED:
 17 Q. I want to turn your attention to
 18 an e-mail you sent to Heather Alonso on
 19 January 17th, which is on the second page, Bates
 20 number ending 8580. And the subject here is
 21 "RE: Oxymorphone mailings." And you write, "In
 22 discussing this production with my director, we
 23 were thinking of going in a somewhat different
 24 direction. We were thinking of shortening the

1 page with the Bates stamp ending 8579, and the
 2 first section with "Direct Mail" says "Two wave
 3 direct mail campaign to the top 10,000
 4 prescribing doctors." The first wave was mailed
 5 August 9th, 2011. The second wave will be
 6 mailed week of September 6, 2011.
 7 Do you see that?
 8 A. Yes.
 9 Q. Now, returning to Exhibit 23,
 10 this is now a January 17th, 2012 conversation
 11 about a three-wave mailing to the top 6,000
 12 doctors concerning oxymorphone; is that correct?
 13 MS. MAHONEY: Objection.
 14 THE WITNESS: This confuses me,
 15 so I need to read the whole document.
 16 BY MR. MELAMED:
 17 Q. The entirety of the --
 18 A. I need to understand the context
 19 of the conversation at the time.
 20 Q. Okay.
 21 A. (Witness reviews document.)
 22 Okay.
 23 Q. So returning to the January 17th,
 24 2012 e-mail from you to Heather Alonso, cc'ing

1 Joanne Terzides at the bottom of the page with
2 the Bates stamped -- with the Bates stamp ending
3 8580, subject "RE: Oxymorphone mailings." This
4 is discussing a mailing campaign separate from
5 the two-wave mailing campaign to the top 10,000
6 prescribers of Opana, correct?

7 A. Yes.

8 Q. That e-mailing campaign, the
9 two-wave campaign to the top 10,000 Opana
10 prescribers had already been completed by the
11 date -- by January 17th, 2012, right?

12 A. I believe so.

13 Q. And so this was -- you were
14 asking for a quote for a three-wave campaign to
15 the top 6,000 doctors, again concerning
16 oxymorphone; is that correct?

17 A. Yes, that appears what I'm
18 asking.

19 Q. Do you know what the top -- the
20 top 6,000 doctors refers to, meaning top 6,000
21 doctors at what?

22 MS. MAHONEY: Objection.

23 THE WITNESS: I believe it to
24 mean the top 6,000 doctors off of the

1 previous list that was entered into
2 evidence.

3 BY MR. MELAMED:

4 Q. Do you know whether this mailing
5 campaign being discussed on January 17th, 2012
6 ever took place?

7 A. I don't believe that it did.

8 Q. Do you understand why -- or why
9 don't you believe that it did?

10 A. Because I would probably remember
11 it and I don't.

12 Q. Okay. You can put that aside.

13 (Document marked for
14 identification as Myers Deposition
15 Exhibit No. 24.)

16 BY MR. MELAMED:

17 Q. Handing you what's been marked
18 Myers Exhibit 24, which is an e-mail and an
19 attachment. The e-mail is from David Myers to a
20 list of recipients. Subject is "Oxymorphone
21 Prescription/Sales Trend" starts at
22 ALLERGAN_MDL_00291742 and ends on 1744. There
23 are subsequent documents to that which appear to
24 be the natives referenced on 1744.

1 Do you recognize this document?

2 A. No, I do not.

3 MS. MAHONEY: One second. I just
4 want to clarify for the record how many
5 pages there --

6 Ten pages of --

7 MR. MELAMED: Non-Bates numbered
8 spreadsheets; is that correct?

9 MS. MAHONEY: Yes, that were
10 produced as native. Thank you.
11 Confirmed.

12 BY MR. MELAMED:

13 Q. Do you have any reason to believe
14 you did not send this e-mail?

15 A. I do not.

16 Q. Do you have any reason to believe
17 that you did not circulate the documents that
18 appear to be the spreadsheets produced as
19 natives?

20 A. I do not.

21 Q. And the content of the e-mail --
22 I'm sorry, the content of these communications
23 concerned your responsibilities you held at
24 Actavis, correct?

1 MS. ZOLNER: Objection, form.

2 MS. MAHONEY: Objection.

3 THE WITNESS: Yes.

4 BY MR. MELAMED:

5 Q. These were not personal e-mails
6 or communications?

7 A. No.

8 Q. You referenced earlier that you
9 remember doing some reports on the success of
10 the introduction of oxymorphone.

11 Do you recall testifying about
12 that?

13 A. Yes.

14 Q. And by success on the
15 introduction by Actavis of oxymorphone, correct?

16 A. Yes.

17 Q. Is this the type of document to
18 which you were referring when you testified to
19 that effect earlier?

20 MS. MAHONEY: Objection.

21 THE WITNESS: Yes.

22 BY MR. MELAMED:

23 Q. And the highlights on the e-mail
24 reference that prescriptions have reached 50% of

1 where they were prior to the discontinuation of
 2 Opana ER 7.5-milligram and 15-milligram.
 3 Do you see that?
 4 A. Yes.
 5 Q. And that there was also a 37.2%
 6 jump in prescriptions in February, correct?
 7 A. Yes.
 8 Q. And you say, "this is most likely
 9 due to a couple of factors," and the first
 10 factor you list is "Continued promotion by
 11 Actavis (direct e-mail/e-mail programs); and the
 12 help of the Kadian sales team promoting
 13 awareness among physicians."
 14 Do you see that?
 15 A. I do.
 16 Q. Did you believe that to be true
 17 when you wrote -- when you wrote this statement?
 18 A. I believe it was a contributing
 19 factor.
 20 Q. Have you come to believe that
 21 that is not true for any reason since?
 22 A. No.
 23 Q. If you could turn to the
 24 spreadsheets, and I'll put the spreadsheets up

1 those units were sold out to; is that correct?
 2 MS. MAHONEY: Objection.
 3 THE WITNESS: I don't believe so.
 4 BY MR. MELAMED:
 5 Q. We discussed earlier when we were
 6 looking at the document concerning chargebacks,
 7 and if I understood incorrectly, let me know,
 8 but my understanding was that you testified you
 9 believed Actavis -- in order to make a
 10 chargeback payment to a wholesaler, Actavis had
 11 to know who that wholesaler had sold Actavis'
 12 drugs to? Can you clarify that testimony to the
 13 extent I've misstated it?
 14 MS. MAHONEY: Objection.
 15 THE WITNESS: Yes, sir. You
 16 asked -- you stated the question that
 17 due to the chargebacks, Actavis would
 18 know which pharmacy it was sold out to,
 19 and that's not exactly how that works.
 20 We know the pharmacy system. We
 21 know that we sold a unit to Walmart. We
 22 don't know that we sold a unit to
 23 Walmart on Lakeshore Boulevard in
 24 Euclid, Ohio.

1 on the screen and try to describe them for the
 2 record. The first one contains a bar chart at
 3 the top. The header says Oxymorphone
 4 Prescription Sales Through February -- Feb 2012,
 5 and the chart says "Oxymorphone Sales Trend."
 6 There are red bars that state total sum of TRx
 7 quantify.
 8 Can you tell me what TRx quantity
 9 stands for?
 10 A. Total prescriptions.
 11 Q. So that is number of
 12 prescriptions written for these drugs; is that
 13 correct?
 14 A. Yes.
 15 Q. Okay. The orange says "CARS Prod
 16 - chargeback units."
 17 A. Yes.
 18 Q. Can you tell me what that stands
 19 for?
 20 A. That has to do with units
 21 actually being sold out to pharmacies and stores
 22 that have pharmacies.
 23 Q. And Actavis had access to
 24 information about which specific pharmacies

1 BY MR. MELAMED:
 2 Q. Understood.
 3 A. So it was --
 4 Q. So you understand one level up
 5 from the individual pharmacy; is that correct?
 6 A. Yes.
 7 MS. ZOLNER: Objection, form.
 8 THE WITNESS: From what I
 9 understand. This is not my area of
 10 expertise.
 11 BY MR. MELAMED:
 12 Q. Whose area of expertise was this
 13 at this time?
 14 MS. ZOLNER: Objection,
 15 foundation.
 16 MS. MAHONEY: Objection.
 17 THE WITNESS: I don't know.
 18 BY MR. MELAMED:
 19 Q. If you were looking to ask
 20 somebody about chargebacks, details about
 21 chargebacks at Actavis concerning oxymorphone in
 22 or around the beginning of 2012, who would you
 23 ask?
 24 MS. MAHONEY: Objection.

<p style="text-align: right;">Page 337</p> <p>1 MS. ZOLNER: Objection, 2 foundation. 3 THE WITNESS: I don't remember. 4 BY MR. MELAMED: 5 Q. If you look at the next page, 6 which has a small chart, top left of which has 7 "Strength" and then "Manufacturer," then "Data" 8 and then there's a "Month" row at the top. Do 9 you see where Endo Pharm, Inc. is listed as a 10 manufacturer? 11 A. I do. 12 Q. And do you see that there is a 13 row for Endo Pharm, Inc. that says in the 14 15-milligram section "Sum of TRx Count"? 15 A. Yes. 16 Q. And that there's another row that 17 says Sum of TRx quantity? 18 A. Yes. 19 Q. So does sum of TRx quantity mean 20 the same thing on this page that it did on the 21 chart, on the prior page? 22 A. Yes, I believe so. 23 Q. Okay. That's the total number of 24 prescriptions written for Endo Pharmaceutical,</p>	<p style="text-align: right;">Page 338</p> <p>1 Incorporated's 15-milligram oxymorphone in 2 the -- over time; is that correct? 3 MS. MAHONEY: Objection. 4 THE WITNESS: One moment, please. 5 I'm a little confused by how I pulled 6 this, but, I'm sorry, could you please 7 restate your question. 8 BY MR. MELAMED: 9 Q. What do you understand sum of TRx 10 quantity for Endo Pharmaceuticals, Inc., 11 15 milligrams to mean on the chart we were 12 looking at? 13 A. On the chart we're looking at 14 currently -- 15 Q. Yes. 16 A. -- I believe it to mean this was 17 the amount of prescriptions that they were 18 selling when they were activity selling this 19 strength. 20 Q. Okay. And what do you understand 21 sum of TRx count to mean for Endo Pharm, Inc., 22 15-milligram strength? 23 A. I'm not sure of the difference 24 between count and quantity. I believe it may</p>
<p style="text-align: right;">Page 339</p> <p>1 mean the difference between -- quantity may mean 2 extended units and count may be a bottle, but 3 I'm not sure. 4 Q. Do you believe the meanings of 5 those terms, TRx quantity and TRx count are 6 consistent as used on this chart alone? 7 MS. MAHONEY: Objection. 8 MS. ZOLNER: Objection, form. 9 Objection, foundation. 10 THE WITNESS: Can you explain. 11 BY MR. MELAMED: 12 Q. Sure. 13 Does sum of TRx count next to 14 Actavis Elizabeth under 15-milligram strength 15 mean the same thing as sum of TRx count next to 16 Endo Pharm, Inc. for 15 milligrams? 17 MS. ZOLNER: Objection, form. 18 Objection, foundation. 19 THE WITNESS: I believe so. I 20 was comparing what they had been selling 21 to what we were selling. 22 BY MR. MELAMED: 23 Q. And to use a colloquialism, 24 that's an apple-to-apples comparison, correct?</p>	<p style="text-align: right;">Page 340</p> <p>1 MS. MAHONEY: Objection. 2 THE WITNESS: Yes. 3 BY MR. MELAMED: 4 Q. You're comparing the same type of 5 information? 6 MS. ZOLNER: Objection. 7 MS. MAHONEY: Objection. 8 THE WITNESS: Like speaks to 9 like. 10 BY MR. MELAMED: 11 Q. Where did you get the information 12 about Endo Pharmaceuticals that is in this 13 chart? 14 A. At the time I would assume that 15 it was Wolters Kluwer. 16 Q. What information was available to 17 you about other company's products through 18 Wolters Kluwer? 19 A. I don't remember the entire range 20 of the data that was available to me. 21 Q. But one of the types of data you 22 do recall being available was information about 23 prescriptions of Endo's Opana at 15 milligrams 24 and 7.5 milligrams; is that correct?</p>

1 A. Yes, yes.
 2 Q. Turn the page, I just want to
 3 look at the first page of the remainder of the
 4 spreadsheet, and just so -- for the record, so
 5 it's clear, it says "Oxycodone IR" at the top,
 6 Form, Product, Strength, Manufacturer, Month,
 7 Metrics, NRx count, NRx quantity, TRx count, TRx
 8 quantity, TRx dollars. The remaining pages have
 9 the same columns but do not have the same
 10 headers as a manner of identifying.
 11 A. Yeah.
 12 Q. Do you understand where this
 13 information came from?
 14 A. I don't recall.
 15 Q. Okay. Do you understand what
 16 "Form" means?
 17 A. I assume that to be dosage form.
 18 Q. And so there are dosage forms in
 19 this spreadsheet that are tablet and then dosage
 20 forms that are sustained-release tablet; is that
 21 correct?
 22 A. Yes.
 23 Q. Okay. "Product," what do you
 24 understand Product to mean?

1 different strengths, and those are tablets, not
 2 sustained-release tablets.
 3 Q. So you were referring to the
 4 manufacturer --
 5 A. Yes.
 6 Q. -- column, correct?
 7 A. Yes.
 8 Q. And so Qualitest is a
 9 manufacturer separate from Actavis, correct?
 10 A. Yes.
 11 Q. And Roxane is a manufacturer
 12 separate from Actavis; is that correct?
 13 A. Yes.
 14 Q. And if you turn to the next page,
 15 there is a manufacturer called Repacker MFG.
 16 Do you see the references to
 17 Repacker?
 18 A. Yes.
 19 Q. Repacker MFG is a company
 20 separate from Actavis; is that right?
 21 MS. ZOLNER: Objection to form.
 22 THE WITNESS: They're an entity
 23 or entities separate from Actavis.
 24 BY MR. MELAMED:

1 A. Either the brand product name or
 2 the molecule, if it's generic.
 3 Q. Is it your understanding that the
 4 generic molecule rows here which appear at the
 5 beginning of this spreadsheet are Actavis
 6 oxymorphone hydrochloride tablets?
 7 A. Could you repeat.
 8 MS. MAHONEY: Objection.
 9 BY MR. MELAMED:
 10 Q. Is it your understanding that
 11 the -- where it says "Product" and it lists
 12 "oxymorphone HCL" --
 13 A. Yes.
 14 Q. -- is it your understanding that
 15 that -- those rows reflect oxymorphone
 16 manufactured and sold by Actavis?
 17 MS. MAHONEY: Objection.
 18 THE WITNESS: No.
 19 BY MR. MELAMED:
 20 Q. What is your understanding of
 21 what that reflects?
 22 A. My understanding by looking at
 23 this chart is that is oxymorphone that is sold
 24 by Qualitest, Roxane or Qualitest and Roxane in

1 Q. That's not -- that doesn't
 2 reflect Actavis oxymorphone; is that right?
 3 MS. ZOLNER: Objection to form.
 4 THE WITNESS: Yes.
 5 BY MR. MELAMED:
 6 Q. If you turn to the last page of
 7 the spreadsheet, you'll see there is reference
 8 in the bottom approximately ten rows to the
 9 manufacturer being Actavis Elizabeth?
 10 A. Yes.
 11 Q. Do you understand that to be
 12 short for Actavis Elizabeth?
 13 A. Yes.
 14 Q. Do you understand those to be --
 15 reflect oxymorphone sold by Actavis?
 16 A. Yes.
 17 Q. And you don't recall where you
 18 got this information?
 19 A. It appears that it might be from
 20 Wolters Kluwer, but I don't recall the layout.
 21 Q. Can you think of any other source
 22 from which you would have gotten this
 23 information, other than Wolters Kluwer?
 24 MS. MAHONEY: Objection.

<p style="text-align: right;">Page 345</p> <p>1 THE WITNESS: No, that's why I'm</p> <p>2 basing my previous comment that it</p> <p>3 appears to be Wolters Kluwer, because I</p> <p>4 don't have any other place where I could</p> <p>5 have gotten this. No other place comes</p> <p>6 to mind.</p> <p>7 (Document marked for</p> <p>8 identification as Myers Deposition</p> <p>9 Exhibit No. 25.)</p> <p>10 MR. MELAMED: Sorry for the</p> <p>11 placement of the sticker, handing you</p> <p>12 Exhibit 25, just didn't want to block</p> <p>13 off anything on the document.</p> <p>14 MS. MAHONEY: Seems appropriate</p> <p>15 to me.</p> <p>16 BY MR. MELAMED:</p> <p>17 Q. Exhibit 25 is an e-mail from</p> <p>18 David Myers to Gerard Farrell and Brenda Vesey</p> <p>19 dated June 13th, 2012, subject, forward, "Diana</p> <p>20 Award" and it has attachments. The document has</p> <p>21 Bates numbers or the Bates range</p> <p>22 ACTAVIS_MDL_00507938 to 944.</p> <p>23 Do you recognize this document?</p> <p>24 A. No.</p>	<p style="text-align: right;">Page 346</p> <p>1 Q. Do you have any reason to doubt</p> <p>2 that you sent the e-mails -- there are two</p> <p>3 e-mails, I'll represent to you on this page,</p> <p>4 that say they came from you to Gerard Farrell</p> <p>5 and Brenda Vesey?</p> <p>6 A. Yes.</p> <p>7 Q. I'm sorry.</p> <p>8 A. I'm sorry.</p> <p>9 Q. Do you have any reason to doubt</p> <p>10 that you sent these e-mails?</p> <p>11 A. Sorry, no.</p> <p>12 Q. Do you have any reason to doubt</p> <p>13 that you sent the attachments to these e-mails</p> <p>14 to those two individuals?</p> <p>15 A. No.</p> <p>16 Q. We talked at the very beginning</p> <p>17 of your deposition about a Diana award you won</p> <p>18 from the HGMA, correct?</p> <p>19 A. Yes.</p> <p>20 Q. If you turn to the page ending in</p> <p>21 940, was this a submission -- let me rephrase</p> <p>22 that.</p> <p>23 Was this part of the submission</p> <p>24 that you provided in support of your candidacy</p>
<p style="text-align: right;">Page 347</p> <p>1 for the Diana award?</p> <p>2 A. I believe it is.</p> <p>3 Q. Did you win any money for winning</p> <p>4 the Diana award?</p> <p>5 A. No, we did not.</p> <p>6 Q. Neither you individually, nor the</p> <p>7 company, correct?</p> <p>8 MS. MAHONEY: Objection.</p> <p>9 THE WITNESS: Yes, neither me</p> <p>10 individually, nor the company.</p> <p>11 MR. MELAMED: You can put that</p> <p>12 aside.</p> <p>13 (Document marked for</p> <p>14 identification as Myers Deposition</p> <p>15 Exhibit No. 26.)</p> <p>16 BY MR. MELAMED:</p> <p>17 Q. I'm going to hand you what's been</p> <p>18 marked Myers Exhibit 26.</p> <p>19 Myers Exhibit 26 is an e-mail and</p> <p>20 a number of attachments. E-mail is from David</p> <p>21 Myers to a number of recipients, sent</p> <p>22 February 25th, 2013, subject, "Buprenorphine</p> <p>23 Naloxone Pre-launch Documents." The Bates range</p> <p>24 is Acquired_Actavis_02048142. And, again, this</p>	<p style="text-align: right;">Page 348</p> <p>1 include what appear to be native documents, so</p> <p>2 the end Bates number is 193. The not Bates</p> <p>3 stamped documents at the end are HDMA Standard</p> <p>4 Pharmaceutical Product Information and the form</p> <p>5 and the instructions thereto.</p> <p>6 Do you recall efforts to launch</p> <p>7 generic version of buprenorphine Naloxone when</p> <p>8 you were employed at Watson?</p> <p>9 A. Vaguely.</p> <p>10 Q. Do you recall whether this drug</p> <p>11 ever did launch?</p> <p>12 A. Yes, it did launch.</p> <p>13 Q. And does this -- to the best of</p> <p>14 your recollection, does this document reflect</p> <p>15 the pre-launch documents you provided the team</p> <p>16 in advance of the launch?</p> <p>17 MS. MAHONEY: Objection.</p> <p>18 THE WITNESS: I believe so.</p> <p>19 BY MR. MELAMED:</p> <p>20 Q. Do you know the indication for</p> <p>21 buprenorphine Naloxone?</p> <p>22 MS. ZOLNER: Objection, form.</p> <p>23 THE WITNESS: I believe that it</p> <p>24 is treatment of opioid dependence.</p>

1 BY MR. MELAMED:
 2 Q. If you look at page ending 146.
 3 MS. MAHONEY: Need to pause for a
 4 minute. Do we know whether there is
 5 anybody on the telephone that is a
 6 representative from one of the companies
 7 as opposed to one of the outside
 8 lawyers? This is a document marked
 9 highly confidential.
 10 MR. MELAMED: Fair enough. Is
 11 there anybody on the phone who is -- who
 12 is employed by one of the companies and
 13 not their outside counsel?
 14 MS. MAHONEY: Okay. Hearing
 15 silence, we'll proceed. I understand
 16 that somebody is maintaining attendance
 17 lists for people who attend these on the
 18 phone. We will reserve our rights to
 19 address this issue if it turns out that
 20 somebody is improperly attending this
 21 part of the deposition.
 22 MR. MELAMED: Fair enough. And
 23 just to make clear, it is not my intent
 24 to throw down a highly confidential

1 document without doing that. Thank you
 2 for asking.
 3 BY MR. MELAMED:
 4 Q. Do you see the promotional -- on
 5 the page ending 146, there's a Promotional Plan?
 6 A. Yes.
 7 Q. Did you put together this
 8 promotional plan?
 9 A. I believe I typed up the
 10 document.
 11 Q. Okay. And when you're talking
 12 about achieving market share of 50%, can you
 13 describe what you mean?
 14 A. Prior to a generic drug's launch,
 15 we would look at the total market for brand
 16 sales. We would make an assumption of the
 17 number of participants, competitors in the
 18 market, and we would assume -- we would set a
 19 target for share based on the number of
 20 competitors and other market factors.
 21 Q. Okay. And the target share,
 22 market share of 50% there is targeting 50% of
 23 the total US market for these specific strengths
 24 outlined on this page of the combination

1 buprenorphine Naloxone; is that correct?
 2 MS. MAHONEY: Objection.
 3 THE WITNESS: No.
 4 BY MR. MELAMED:
 5 Q. Please explain what it is.
 6 MS. MAHONEY: Objection.
 7 THE WITNESS: It is to achieve
 8 50% of whatever the total market share
 9 for the United States goes generic. It
 10 would be 50% of generic products filled,
 11 not 50% of generic plus brand.
 12 BY MR. MELAMED:
 13 Q. Understood. Do you recall
 14 whether you undertook any marketing, and by
 15 "you" here I mean anyone at Watson; do you
 16 recall?
 17 MS. ZOLNER: Objection.
 18 BY MR. MELAMED:
 19 Q. Whether Watson undertook any
 20 marketing of the combination buprenorphine
 21 Naloxone?
 22 MS. ZOLNER: Objection,
 23 foundation.
 24 THE WITNESS: Could you define

1 marketing?
 2 BY MR. MELAMED:
 3 Q. Do you recall whether Watson
 4 placed any advertisements in periodicals for
 5 buprenorphine Naloxone?
 6 A. I don't recall.
 7 Q. Do you recall whether there was a
 8 direct mailing campaign by Watson to any doctors
 9 concerning the launch of buprenorphine Naloxone?
 10 A. I don't recall.
 11 Q. Do you recall whether there were
 12 any promotional activities undertaken by
 13 distributors of Actavis' -- availability of
 14 Actavis' buprenorphine Naloxone?
 15 MS. MAHONEY: Objection.
 16 THE WITNESS: I don't recall.
 17 BY MR. MELAMED:
 18 Q. If you look at the bullets point
 19 on page 4 of this page at 8146 it says "Initial
 20 Target market to include" and then it lists an
 21 initial target market.
 22 Do you see that?
 23 A. Yes.
 24 MS. MAHONEY: Objection.

1 THE WITNESS: Yes.
 2 BY MR. MELAMED:
 3 Q. Do you recall whether Watson did
 4 anything to reach out to any of the entities
 5 listed in the initial target market?
 6 MS. MAHONEY: Objection.
 7 MS. ZOLNER: Objection, form.
 8 Objection, foundation.
 9 THE WITNESS: We would have
 10 reached out to our salesmen to contact
 11 their customers and announce the
 12 availability of the product and gather
 13 whether they would be interested in
 14 purchasing from us.
 15 BY MR. MELAMED:
 16 Q. Would you -- would Watson have
 17 undertaken the same activities with respect to
 18 what are referred to in the second bullet point
 19 as "other targets"?
 20 MS. ZOLNER: Objection, form.
 21 MS. MAHONEY: Objection.
 22 MS. ZOLNER: Objection,
 23 foundation.
 24 THE WITNESS: They may.

1 fewer than 100?
 2 A. It was most definitely fewer than
 3 100.
 4 Q. So the target customers there
 5 we're talking about national chains, small
 6 chains, nonwarehousing chains, large
 7 wholesalers, regional wholesalers, distributors,
 8 GPOs, for instance?
 9 MS. ZOLNER: Objection to form.
 10 MS. MAHONEY: Objection.
 11 THE WITNESS: Yes, possibly.
 12 BY MR. MELAMED:
 13 Q. Okay. Do you recall what the --
 14 whether there was an incentive in the offer
 15 letter provided by Watson to the initial target
 16 customers?
 17 A. Could you define "incentive"?
 18 Q. Sure, any discounts.
 19 MS. MAHONEY: Objection.
 20 THE WITNESS: No, I don't believe
 21 that was standard form for our price --
 22 our offer letters. We made an offer and
 23 proposed a price.
 24 BY MR. MELAMED:

1 BY MR. MELAMED:
 2 Q. And just to be clear, my
 3 questions and your answers here concern
 4 buprenorphine Naloxone, correct?
 5 A. Yes.
 6 Q. I'm sorry if I left that off.
 7 And the third bullet point says, "Offer letters
 8 for the initial target customers will be sent by
 9 marketing/pricing."
 10 Do you see that?
 11 A. Yes.
 12 Q. Do you recall whether such offer
 13 letters were sent?
 14 A. I believe they were.
 15 Q. Do you know who sent them?
 16 A. I believe it was me.
 17 Q. Do you know how many of them you
 18 sent?
 19 A. I don't recall.
 20 Q. Do you recall how many --
 21 approximately how many initial target customers
 22 were included in that fourth bullet point?
 23 A. I don't recall.
 24 Q. Do you recall whether it was

1 Q. Do you recall any negotiations
 2 about pricing with any -- concerning
 3 buprenorphine Naloxone?
 4 A. Negotiations happen as a course
 5 of business, but I am not part of those
 6 negotiations.
 7 MR. MELAMED: Let's go off the
 8 record, please.
 9 THE VIDEOGRAPHER: The time is
 10 4:23 p.m. We're going off the record.
 11 (Brief recess.)
 12 THE VIDEOGRAPHER: The time is
 13 4:43 p.m., and we're back on the record.
 14 BY MR. KIEFFER:
 15 Q. Good afternoon, Mr. Myers.
 16 A. Good afternoon.
 17 Q. My name is John Kieffer. I'm
 18 going to ask you a few questions. I'm going to
 19 go as quickly as I can to try to get you out of
 20 here. If I talk too fast, you stop me and let
 21 me know, and I'll try to slow down, okay?
 22 A. Understood, thank you.
 23 Q. You understand you're still under
 24 oath?

1 A. I do.
 2 Q. You understand that is the same
 3 oath that you will take if you end up testifying
 4 as a witness at the trial of this case?
 5 A. I do.
 6 Q. I assume you're here today
 7 voluntarily, meaning nobody served you with a
 8 subpoena compelling your attendance?
 9 A. No, I don't --
 10 MS. MAHONEY: Objection.
 11 THE WITNESS: I don't believe so.
 12 BY MR. KIEFFER:
 13 Q. I'm assuming your employer or
 14 somebody, their attorneys told you your
 15 deposition had been requested and asked that you
 16 come today?
 17 A. Yes, I believe so.
 18 Q. And you complied?
 19 A. Yes.
 20 Q. That's why we're all here, right?
 21 A. Yes.
 22 Q. Okay. The trial of this case is
 23 set in Cleveland, Ohio. Can I assume that if
 24 your employer or somebody on their behalf, like

1 their attorneys asks you to appear live to
 2 testify before the jury at trial, that you will
 3 comply with that request, just as you've
 4 complied with the request to come and testify
 5 today?
 6 MS. ZOLNER: Objection.
 7 MS. MAHONEY: Objection.
 8 THE WITNESS: I believe so, yes.
 9 BY MR. KIEFFER:
 10 Q. Okay. And the reason I ask that
 11 you're aware your testimony is being videotaped
 12 today?
 13 A. Yes.
 14 Q. Okay. If a jury has to watch a
 15 videotape of your testimony, instead of having
 16 the benefit of seeing and hearing from you live,
 17 I want them to understand it's not because of
 18 anything the plaintiffs have done and that you
 19 certainly are willing to come and appear live if
 20 asked; fair enough?
 21 MS. ZOLNER: Objection.
 22 MS. MAHONEY: Objection.
 23 THE WITNESS: Yes.
 24 BY MR. KIEFFER:

1 Q. Okay. Just to make sure I'm
 2 clear, you're represented here today by two
 3 attorneys?
 4 MS. MAHONEY: Well, objection.
 5 MS. ZOLNER: Objection.
 6 THE WITNESS: I'm represented by
 7 two teams of them, two attorney -- two
 8 companies that are representing Acta --
 9 excuse me, Teva and Allergan, I'm sorry.
 10 BY MR. KIEFFER:
 11 Q. Two teams --
 12 A. Two teams.
 13 Q. You're represented by two teams
 14 of attorneys today?
 15 A. There are four attorneys here
 16 today.
 17 Q. All right. And I think you said
 18 earlier that you met with the attorneys all day
 19 yesterday from 9:00 till 5:00 or 5:30
 20 thereabouts?
 21 A. Yes.
 22 Q. Okay. And that was to prepare
 23 for your testimony today?
 24 A. Yes.

1 Q. Okay. And you also reviewed some
 2 documents to prepare for your testimony today;
 3 is that correct?
 4 A. Yes.
 5 Q. All right. I'm not going to ask
 6 you, given the lateness of the hour, to try to
 7 recall every document you may have seen
 8 yesterday, but some of the documents you've been
 9 shown in your testimony today, were those among
 10 some of them you reviewed yesterday?
 11 MS. MAHONEY: Objection.
 12 THE WITNESS: Yes.
 13 BY MR. KIEFFER:
 14 Q. The White Rabbit e-mail, for
 15 example, is that one you reviewed yesterday?
 16 A. I didn't -- I saw that e-mail. I
 17 did not see the White Rabbit portion of it.
 18 Q. Okay. But you saw the part that
 19 preceded it that talked about the weekly meeting
 20 and the plan for the oxymorphone launch, that
 21 part of the e-mail?
 22 A. Yes, I did see that.
 23 Q. Okay. I thought that one might
 24 make the list. I'm going to have a few

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1 follow-ups for you on that in a minute, but we
2 won't jump ahead to that until we cover a couple
3 of other topics, okay?

4 A. Okay.

5 Q. I want to ask you a couple of
6 brief questions about your background. I'm not
7 going to go back through your resume or your CV.

8 (Document marked for
9 identification as Myers Deposition
10 Exhibit No. 27.)

11 BY MR. KIEFFER:

12 Q. But let me hand you what we have
13 marked as Exhibit 27. That's just something we
14 printed off the internet, which I think is your
15 LinkedIn profile.

16 Does that look like what it is to
17 you?

18 A. Yes, it appears to be.

19 Q. Okay. That is, I assume --

20 MR. RUANE: I'm sorry, I need to
21 ask for one back. I didn't have an
22 extra copy. I apologize.

23 MS. ZOLNER: Sure.

24 BY MR. KIEFFER:

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1 Q. Okay. I assume you drafted the
2 information in terms of your job title, the
3 positions you've held and, in particular, this
4 material marked "Summary"; is that correct?

5 MS. MAHONEY: Objection.

6 THE WITNESS: Yes.

7 BY MR. KIEFFER:

8 Q. Okay. Under the Summary I want
9 to ask you just a few things there. You
10 indicate that you're an energetic senior project
11 manager skilled in all facets of generic
12 pharmaceutical product management including
13 product lifecycle management, new product
14 launch, marketing research, revenue projection
15 and demand forecasting.

16 Did I read that all correctly?

17 A. Yes, well, except for you called
18 me a project manager, and I am a product
19 manager.

20 Q. Thank you. I meant to say
21 product, but in my haste, I misspoke. So thanks
22 for clarifying the record.

23 You go on to state there,
24 "recognized for developing unique corporate and

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1 product advertising/promotional materials,"
2 correct?

3 A. Yes.

4 Q. What sorts of things are those?
5 Are they things like, for example, PowerPoints?

6 MS. MAHONEY: Objection.

7 THE WITNESS: It could be nearly
8 anything that's used for marketing the
9 company or marketing a product. It
10 could range as simple as a product ad, a
11 corporate awareness ad, websites and
12 trade show materials, including booth
13 design.

14 BY MR. KIEFFER:

15 Q. Things that go by the name sell
16 sheets would be included among those?

17 A. Those might be, yes.

18 Q. Those are what are sometimes
19 referred to as like a salesman's leave-behind
20 device that a drug representative might leave
21 behind with a doctor or prescriber they're
22 calling on?

23 MS. MAHONEY: Objection.

24 THE WITNESS: Could you repeat

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1 that question.

2 BY MR. KIEFFER:

3 Q. Yeah, I don't want to get us
4 bogged down, but a sell sheet, for example, I
5 think you said in your earlier testimony, those
6 typically, in your experience, at least at
7 Actavis and later Teva, those are things that
8 very often advertise or provide information on a
9 specific product, and they are materials that
10 either a member of the sales force might leave
11 behind after calling on a doctor or perhaps
12 would be handed out at a trade show, things like
13 that?

14 MS. MAHONEY: Objection,
15 mischaracterizes the testimony.

16 MS. ZOLNER: Objection, form.

17 THE WITNESS: Sell sheets are
18 used to promote a product. It's the --
19 I have -- I take issue with your
20 characterization that it's left at
21 doctors' offices. As generics, as a
22 rule, we do not contact doctors
23 directly, primarily, as a rule for our
24 products.

1 BY MR. KIEFFER:
 2 Q. As a rule with certain very
 3 notable exceptions, for example, the oxymorphone
 4 launch that was talked about earlier today and
 5 perhaps others, right?
 6 MS. ZOLNER: Objection to form.
 7 MS. MAHONEY: Objection.
 8 THE WITNESS: That was an
 9 exception to a standard course of
 10 business.
 11 BY MR. KIEFFER:
 12 Q. Okay. And certainly in that
 13 instance, I think, and we can look at the e-mail
 14 here in a moment, so I don't misquote it, but in
 15 that instance, I think there was -- there were
 16 specific pieces mailed to the physicians --
 17 MS. ZOLNER: Objection, form.
 18 BY MR. KIEFFER:
 19 Q. -- in a two-wave mailing.
 20 MS. ZOLNER: Objection, form.
 21 THE WITNESS: I believe so.
 22 BY MR. KIEFFER:
 23 Q. Okay. And then the Kadian sales
 24 force also brought materials with them to go

1 over with the physicians when they were talking
 2 about the oxymorphone product, correct?
 3 MS. MAHONEY: Objection,
 4 mischaracterizes the testimony.
 5 THE WITNESS: Yes.
 6 BY MR. KIEFFER:
 7 Q. Okay. Electronic advertising
 8 materials would also be the kind of thing that
 9 you have created to build awareness of a
 10 particular product?
 11 MS. ZOLNER: Objection, form.
 12 THE WITNESS: Yes.
 13 BY MR. KIEFFER:
 14 Q. Okay. Let me -- let me continue
 15 on here. You indicate 20 years experience in
 16 the genetic -- I'm sorry -- in the generic
 17 pharmaceuticals industry with 15-year
 18 concentration on product management and
 19 communications, correct?
 20 A. Yes.
 21 Q. Is it true that really your
 22 entire career in the pharmaceutical business has
 23 been spent with respect to -- focusing on
 24 generic products versus brand products?

1 A. Yes.
 2 Q. Okay. So whatever marketing and
 3 advertising and promotional type activities you
 4 may be engaged in and marketing and advertising
 5 and promotional type materials you may have a
 6 hand in developing would typically all relate to
 7 the generic side of the business as opposed to
 8 the branded side, correct?
 9 MS. ZOLNER: Objection, form.
 10 MS. MAHONEY: Objection.
 11 THE WITNESS: I'd agree.
 12 BY MR. KIEFFER:
 13 Q. Okay. And then further down here
 14 you list under specialties, again, on the fourth
 15 one, "Development of Sales Presentations and
 16 Advertising/Communications Materials," correct?
 17 A. Yes.
 18 Q. All right. The sales
 19 presentations that you are -- that you are
 20 referencing here that you've developed, who
 21 typically utilizes those? Who is actually
 22 making the presentations?
 23 MS. ZOLNER: Objection to form.
 24 MS. MAHONEY: Objection.

1 THE WITNESS: Our salesmen would
 2 use this.
 3 BY MR. KIEFFER:
 4 Q. So, as an example, one example at
 5 least, the oxymorphone product that we talked
 6 about, the launch of that product and the
 7 follow-up marketing of that product?
 8 MS. MAHONEY: Objection.
 9 THE WITNESS: Yes.
 10 BY MR. KIEFFER:
 11 Q. Yes?
 12 A. Yes, it would be used for that.
 13 Q. Okay, all right, fair enough.
 14 You gave quite a bit of testimony
 15 earlier about the various facets of your job.
 16 One significant facet is you're kind of an ad
 17 guy, right, on the creative side?
 18 MS. ZOLNER: Object.
 19 BY MR. KIEFFER:
 20 Q. You help develop content and
 21 graphics and materials designed to deliver a
 22 marketing and sales message?
 23 MS. ZOLNER: Objection to form.
 24 MS. MAHONEY: Objection.

1 THE WITNESS: It appears to be
2 that way from this deposition, the
3 content in it, but at the time that I
4 was doing advertising, it was only a
5 portion of my responsibilities. I also
6 managed a product line.
7 BY MR. KIEFFER:
8 Q. No, no, understood. And I don't
9 mean to give short shrift to that, but,
10 certainly, it's a portion of your
11 responsibility?
12 MS. MAHONEY: Objection.
13 THE WITNESS: It was.
14 BY MR. KIEFFER:
15 Q. It's an important portion, true?
16 MS. ZOLNER: Objection, form.
17 MS. MAHONEY: Objection.
18 THE WITNESS: It was a portion of
19 my responsibilities.
20 BY MR. KIEFFER:
21 Q. Okay. You have been at Teva for
22 a little over two years?
23 A. Yes.
24 Q. When did you become a Teva

1 just tell me versus me trying to piece it
2 together, what was your last title while you
3 were an Actavis employee and your first title
4 after you became a Teva employee?
5 MS. ZOLNER: Objection, form.
6 THE WITNESS: My last title at
7 Actavis was senior manager of products
8 and communications.
9 My title at Teva Pharmaceuticals
10 became senior -- or product manager 4 of
11 product operations.
12 BY MR. KIEFFER:
13 Q. Okay. So a bit of a title
14 change, maybe not a radical title change; is
15 that fair?
16 MS. ZOLNER: Objection, form.
17 MS. MAHONEY: Objection.
18 THE WITNESS: A bit of a title
19 change to align with internal titles
20 that they had at Teva.
21 BY MR. KIEFFER:
22 Q. Totally understood.
23 When you transitioned from being
24 an Actavis employee to a Teva employee, I'm

1 employee?
2 A. When Teva purchased Actavis.
3 Q. Okay. And that date, just for
4 our record, was when?
5 A. I don't remember exactly. It's
6 been about two years. I think I have on here
7 August 2016, that sounds about right, without
8 having an exact date.
9 Q. And prior to that for about 17
10 years, at least according to your LinkedIn, you
11 worked for Actavis?
12 A. Yes, I think it was longer than
13 that, actually. I've been with the company that
14 has become Teva through many mergers and
15 acquisitions for 25 years as of last October.
16 Q. Okay, thank you. I think you
17 testified earlier that when Teva acquired
18 Actavis, you had a bit of a title change; is
19 that fair?
20 A. Yes.
21 Q. Your LinkedIn profile, assuming
22 that it's accurate, forgive me, I'm going to
23 move the cords here a little bit, indicates
24 that -- let's see here -- well, why don't you

1 assuming the fundamental nature of your work and
2 the skill sets you would deploy on a daily basis
3 really didn't change very much, if at all, fair?
4 MS. MAHONEY: Objection.
5 MS. ZOLNER: Objection, form.
6 THE WITNESS: Essentially, no,
7 that did not -- my skill set did not
8 change that much.
9 BY MR. KIEFFER:
10 Q. Okay. You still did a lot of the
11 same sorts of things the day you became a Teva
12 employee that you had done for some period of
13 time as an Actavis employee?
14 MS. ZOLNER: Objection to form.
15 MS. MAHONEY: Objection.
16 THE WITNESS: Not completely.
17 BY MR. KIEFFER:
18 Q. Okay. What changed, if anything?
19 A. I no longer handled advertising
20 in any way.
21 Q. At Teva?
22 A. At Teva.
23 Q. Okay. And who handles
24 advertising at Teva?

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1 MS. MAHONEY: Objection.
 2 THE WITNESS: There is an entire
 3 product market -- not product marketing,
 4 but marketing communications team at
 5 Teva.
 6 BY MR. KIEFFER:
 7 Q. Okay. And who heads up that
 8 team?
 9 A. I'm forgetting her name.
 10 Q. Who is on the team?
 11 A. There are several people that do
 12 various things. Ashley Maul(ph.) is one.
 13 Patrick Mullaney is another, and there's another
 14 woman that they report to, Suzanne someone or
 15 other. I don't remember her name.
 16 Q. Is there a reason that you don't
 17 do advertising at Teva?
 18 MS. MAHONEY: Objection.
 19 THE WITNESS: I don't do
 20 advertising because I chose not to go in
 21 that vein, and I chose to focus on
 22 product management. It would have
 23 required a major job change for me to do
 24 that, and I chose not to do that.

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1 all prescription generics.
 2 Q. Okay. Some of them opioid
 3 medications?
 4 A. Some.
 5 Q. What opioid medications?
 6 MS. MAHONEY: Objection.
 7 THE WITNESS: I believe
 8 buprenorphine Naloxone is one of them.
 9 I can't remember any others. It's not
 10 broken out specifically.
 11 BY MR. KIEFFER:
 12 Q. Teva advertises itself at least
 13 on its company website as the world's leading
 14 provider of generic drugs.
 15 Are you aware that it makes that
 16 claim?
 17 A. I'm aware that we are the largest
 18 generic pharmaceutical company in the world,
 19 yes.
 20 Q. Okay. Your question maybe was a
 21 little -- your answer was a little bit better
 22 than my question.
 23 As far as you're concerned, Teva
 24 is the largest generic pharmaceutical maker in

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1 BY MR. KIEFFER:
 2 Q. A major job change in terms of
 3 what, reporting structure?
 4 A. Well, reporting structure,
 5 location --
 6 Q. Okay.
 7 A. -- direction I wanted my career
 8 to go in, many things.
 9 Q. What's the -- what would be --
 10 what would the location change have been?
 11 A. I work in Parsippany, New Jersey,
 12 and the current marketing communications people
 13 are in Horsham, Pennsylvania.
 14 Q. Okay. So that was one of the
 15 reasons; you liked where you were?
 16 A. Well, let me clarify something.
 17 I never considered it, nor was anything offered
 18 for me to go into communications. My job
 19 changed, and I accepted that and was happy with
 20 the change.
 21 Q. Okay. You're in product
 22 management at Teva. What products do you
 23 manage?
 24 A. I manage a plethora of products,

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1 the world?
 2 MS. MAHONEY: Objection.
 3 THE WITNESS: Based on providing
 4 patients with product, not based on --
 5 based on volume, not based on dollars.
 6 BY MR. KIEFFER:
 7 Q. Okay. So in terms of patients
 8 taking generic pharmaceuticals, more patients
 9 who take generic pharmaceuticals around the
 10 world take Teva's than anybody else's?
 11 MS. ZOLNER: Objection to form.
 12 MS. MAHONEY: Objection.
 13 THE WITNESS: Yes.
 14 BY MR. KIEFFER:
 15 Q. Okay. How about in the United
 16 States?
 17 MS. MAHONEY: Objection.
 18 THE WITNESS: I believe that to
 19 be true.
 20 BY MR. KIEFFER:
 21 Q. Same?
 22 A. Yes.
 23 MS. MAHONEY: Objection.
 24

1 BY MR. KIEFFER:
 2 Q. Okay. Teva indicates on its
 3 website that one-in-seven of the 3.86 billion
 4 generic prescriptions written in the United
 5 States is filled with a Teva product.
 6 Is that consistent with your
 7 understanding?
 8 MS. MAHONEY: Objection.
 9 THE WITNESS: I have no basis for
 10 the actual number.
 11 BY MR. KIEFFER:
 12 Q. Okay. Sound out of line to you?
 13 MS. MAHONEY: Objection.
 14 THE WITNESS: I have no basis for
 15 the actual number.
 16 BY MR. KIEFFER:
 17 Q. Okay. I mean, if we were -- if
 18 we were to do -- calculate a percentage as to
 19 what one-in-seven is, does that sound right to
 20 you, or do you know?
 21 MS. MAHONEY: Objection.
 22 THE WITNESS: I don't know. I
 23 have no basis for that number.
 24 BY MR. KIEFFER:

1 idea.
 2 BY MR. KIEFFER:
 3 Q. You're aware of the fact, I
 4 assume, that generic opioids make up the
 5 substantial majority of the US market versus
 6 branded?
 7 MS. MAHONEY: Objection.
 8 THE WITNESS: Could you repeat
 9 the question, please.
 10 BY MR. KIEFFER:
 11 Q. Yeah. You're aware of the fact,
 12 I assume, that generic opioids make up a
 13 substantial majority of the US market versus
 14 branded opioids?
 15 MS. MAHONEY: Objection stands.
 16 THE WITNESS: I'm not aware of
 17 that.
 18 BY MR. KIEFFER:
 19 Q. You've never heard that before?
 20 A. No.
 21 Q. You have a belief to the
 22 contrary?
 23 A. I've never given it thought.
 24 Q. In all the time that you were at

1 Q. Okay. When you were at Actavis,
 2 just prior to its acquisition by Teva, were
 3 you -- do you know what Actavis' share of the US
 4 generic market was?
 5 A. I don't --
 6 MS. MAHONEY: Objection.
 7 THE WITNESS: I don't recall.
 8 BY MR. KIEFFER:
 9 Q. Do you recall when Teva acquired
 10 Actavis what its share of the US generic market
 11 became?
 12 MS. MAHONEY: Objection.
 13 THE WITNESS: I don't recall.
 14 BY MR. KIEFFER:
 15 Q. Or the US opioid market?
 16 MS. MAHONEY: Objection.
 17 MS. ZOLNER: Objection, form.
 18 THE WITNESS: I don't recall.
 19 BY MR. KIEFFER:
 20 Q. If you were asked whether Teva
 21 has 20% or more of the US opioid market, do you
 22 have any idea whether that's correct or not?
 23 MS. MAHONEY: Objection.
 24 THE WITNESS: I would have no

1 Actavis doing marketing communications work,
 2 some of which focused on generic opioids, you
 3 never gave a thought to how much of the US
 4 opioid market was for a generic product such as
 5 Actavis made versus branded products?
 6 MS. MAHONEY: Objection.
 7 THE WITNESS: I provided
 8 advertising and collateral materials for
 9 our full product line. Opioids were a
 10 very -- from a product volume of work
 11 that I had to do, opiates were a very
 12 small part, so that's why I did not
 13 bother to quantify that.
 14 BY MR. KIEFFER:
 15 Q. As a part of your workload is
 16 what you're saying, how you spent your time?
 17 MS. MAHONEY: Objection.
 18 THE WITNESS: I handled for a
 19 time all advertising projects, and
 20 product advertising related to opioids
 21 was very small compared to the entire --
 22 excuse me -- entire workload.
 23 BY MR. KIEFFER:
 24 Q. Your workload you're referencing?

1 A. Yes, my workload.
2 Q. You're not referencing, for
3 example, the amount that generic opioids
4 contributed to Actavis' gross revenues or gross
5 sales each year, correct?

6 A. That was not a concern for me in
7 my capacity.

8 Q. Okay. In your capacity when you
9 were at Actavis, did it ever come to your
10 attention that generic opioid sales were a
11 substantial contributor to Actavis' annual
12 sales?

13 MS. ZOLNER: Objection to form.

14 MS. MAHONEY: Objection.

15 THE WITNESS: I don't know that
16 to be true.

17 BY MR. KIEFFER:

18 Q. Do you know anything about it one
19 way or the other?

20 MS. ZOLNER: Objection, form.

21 THE WITNESS: No.

22 BY MR. KIEFFER:

23 Q. Was it ever a part of your job or
24 your thinking when you were working on

1 advertising and promotional materials at Actavis
2 to try to get a sense of whether a particular
3 product or products that you were promoting was
4 a 1% contributor to sales or a 30% contributor
5 to sales?

6 MS. ZOLNER: Objection to form.

7 MS. MAHONEY: Objection.

8 THE WITNESS: As a product
9 manager, I would certainly be aware of
10 the largest products in my line. I
11 might not be aware of the major products
12 for the company overall.

13 BY MR. KIEFFER:

14 Q. Okay. And specifically with
15 respect to generic opioids in your time at
16 Actavis, is it your testimony you have no idea
17 whether generic opioids were a significant,
18 average or tiny contributor to annual sales?

19 MS. ZOLNER: Objection to form.

20 MS. MAHONEY: Objection.

21 THE WITNESS: I would have no
22 idea of their contribution towards the
23 total, overall revenue of the company.

24 BY MR. KIEFFER:

1 Q. None at all?

2 A. Not that I --

3 MS. MAHONEY: Objection.

4 THE WITNESS: Not that I recall.

5 BY MR. KIEFFER:

6 Q. Even though you were a product
7 manager who managed certain generic opioid
8 products at Actavis?

9 MS. MAHONEY: Objection.

10 MS. ZOLNER: Objection.

11 THE WITNESS: I did not manage
12 all opioid products; therefore, I don't
13 know how they contribute to the total
14 overall income of the company.

15 BY MR. KIEFFER:

16 Q. Okay. With respect to the
17 products that you managed, do you have any idea
18 how they contributed to the overall income of
19 the company?

20 MS. ZOLNER: Objection to form.

21 THE WITNESS: I might have known
22 at one point, but I don't recall.

23 BY MR. KIEFFER:

24 Q. I don't mean to be argumentative

1 with you. It's a point of curiosity for me. It
2 seems like as a product manager, one of the
3 things you would get evaluated on is how well
4 are you managing your product, right, sounds
5 kind of axiomatic?

6 A. Yes.

7 Q. And one of the things, a
8 significant thing that goes into how well you're
9 managing your product is how well is the product
10 selling and how much of the product is selling
11 and what's it doing for the company, right?

12 MS. MAHONEY: Objection.

13 MS. ZOLNER: Objection to form.

14 THE WITNESS: My responsibilities
15 and how I'm viewed at doing my job are
16 not based entirely on profitable
17 high-ranking products, nor is it
18 increasing sales of those products.

19 Product management at Teva is
20 greatly an operational position. It's
21 forecasting demand, ensuring that the
22 company's factories make enough to
23 support our clients and our customers
24 without supply disruption and not making

<p style="text-align: right;">Page 385</p> <p>1 so much that we end up throwing product</p> <p>2 away. That is a major portion.</p> <p>3 Forecast accuracy is 25% of my</p> <p>4 annual review. It continues to be so</p> <p>5 every year for -- for years and years.</p> <p>6 So to say that we are focused</p> <p>7 more like a brand, where a brand team</p> <p>8 would have one product and they work on</p> <p>9 it, I think that I probably manage over</p> <p>10 100 product families, and I do not know</p> <p>11 the specific budget for nearly any of</p> <p>12 them.</p> <p>13 BY MR. KIEFFER:</p> <p>14 Q. Okay. Well, thank you. You</p> <p>15 covered a lot there, a lot of which in the</p> <p>16 interest of time is respectfully not of interest</p> <p>17 to me, but I appreciate the information.</p> <p>18 You said, though, at the</p> <p>19 beginning of that that my responsibilities at</p> <p>20 Actavis and how I'm viewed at doing my job are</p> <p>21 not based entirely on profitable high-ranking</p> <p>22 products, okay. A part of how you were</p> <p>23 evaluated had to do with the success and the</p> <p>24 profitability of the products you managed, fair?</p>	<p style="text-align: right;">Page 386</p> <p>1 MS. MAHONEY: Objection.</p> <p>2 MS. ZOLNER: Objection, form.</p> <p>3 MS. MAHONEY: Foundation.</p> <p>4 THE WITNESS: It's the successful</p> <p>5 management of my entire product line,</p> <p>6 not just specific products within that</p> <p>7 product line. It is not pulled -- those</p> <p>8 products are not pulled out separately</p> <p>9 in my performance review.</p> <p>10 BY MR. KIEFFER:</p> <p>11 Q. But you won awards, for example,</p> <p>12 the award that went by the name of sell more</p> <p>13 products faster at higher prices, you won a</p> <p>14 specific award for your work on the oxymorphone</p> <p>15 launch with respect to that; did you not?</p> <p>16 MS. MAHONEY: Objection.</p> <p>17 MS. ZOLNER: Objection, form.</p> <p>18 THE WITNESS: I believe that was</p> <p>19 in an e-mail that we reviewed earlier.</p> <p>20 BY MR. KIEFFER:</p> <p>21 Q. Right. I mean, that's a -- that</p> <p>22 looks to me like kind of a big feather in your</p> <p>23 cap.</p> <p>24 Is that how you viewed it?</p>
<p style="text-align: right;">Page 387</p> <p>1 MS. ZOLNER: Objection, form.</p> <p>2 MS. MAHONEY: Objection.</p> <p>3 THE WITNESS: I viewed it as -- I</p> <p>4 wouldn't say it was necessarily a</p> <p>5 feather in my cap, but it certainly was</p> <p>6 an acknowledgment of my hard work on</p> <p>7 that project.</p> <p>8 BY MR. KIEFFER:</p> <p>9 Q. Okay. And it looks like, and I'm</p> <p>10 not going to take the time to go back through</p> <p>11 all the different documents you were shown, but</p> <p>12 we will get to a few here in a moment, but it</p> <p>13 looks like to me that oxymorphone launch was a</p> <p>14 significant success for Actavis; was it not?</p> <p>15 MS. MAHONEY: Objection.</p> <p>16 THE WITNESS: I'm not aware that</p> <p>17 it was a significant financial success.</p> <p>18 That was not the goal that was placed in</p> <p>19 front of us. Certainly, that's a</p> <p>20 byproduct.</p> <p>21 BY MR. KIEFFER:</p> <p>22 Q. It's the -- let me make sure I</p> <p>23 understand what you just told us.</p> <p>24 Are you saying that when Actavis,</p>	<p style="text-align: right;">Page 388</p> <p>1 for example, launches a new product or engages</p> <p>2 in marketing related activities that sales and</p> <p>3 profits are not a goal, they're merely a</p> <p>4 byproduct?</p> <p>5 MS. MAHONEY: Objection.</p> <p>6 MS. ZOLNER: Objection to form.</p> <p>7 MS. MAHONEY: Mischaracterizes</p> <p>8 the testimony.</p> <p>9 THE WITNESS: They're a goal for</p> <p>10 the company. They're not entirely</p> <p>11 within our control.</p> <p>12 (Document marked for</p> <p>13 identification as Myers Deposition</p> <p>14 Exhibit No. 28.)</p> <p>15 BY MR. KIEFFER:</p> <p>16 Q. Mr. Myers, let me hand you what</p> <p>17 we've marked as Exhibit 28. This is a document</p> <p>18 that came from Actavis' internal files, actually</p> <p>19 files that were provided to us from what's</p> <p>20 referred to as your custodial file, your</p> <p>21 electronic files.</p> <p>22 A. Okay.</p> <p>23 Q. This particular document was</p> <p>24 produced natively as Acquired_Actavis_01367234.</p>

<p style="text-align: right;">Page 389</p> <p>1 MS. MAHONEY: I need to make the</p> <p>2 same point I made previously. If</p> <p>3 there's anybody on the phone that is not</p> <p>4 outside counsel for a party to this</p> <p>5 case, can you please identify yourself.</p> <p>6 This is a highly confidential document,</p> <p>7 and I need to have you not attend this</p> <p>8 portion of the deposition. I don't know</p> <p>9 how we alert you when we finish with</p> <p>10 this, but can anybody affirmatively</p> <p>11 assert that they are not outside counsel</p> <p>12 for one of the parties?</p> <p>13 Again, I'll reserve rights to</p> <p>14 challenge if it turns out it's the case.</p> <p>15 MR. KIEFFER: All right, fair</p> <p>16 enough.</p> <p>17 BY MR. KIEFFER:</p> <p>18 Q. Okay. Mr. Myers, this is a --</p> <p>19 I'm going to call it a PowerPoint or a slide</p> <p>20 deck that was produced to us from your</p> <p>21 electronic files at Actavis. It is entitled</p> <p>22 "Marketing Department Overview."</p> <p>23 Let me first begin by asking you,</p> <p>24 did you create this?</p>	<p style="text-align: right;">Page 390</p> <p>1 A. I don't recall that.</p> <p>2 Q. Is it possible that you created</p> <p>3 it?</p> <p>4 MS. MAHONEY: Objection.</p> <p>5 MS. ZOLNER: Calls for</p> <p>6 speculation.</p> <p>7 THE WITNESS: It's possible with</p> <p>8 input from others.</p> <p>9 BY MR. KIEFFER:</p> <p>10 Q. Okay. I take it during your time</p> <p>11 at Actavis, you would from time to time create</p> <p>12 things like PowerPoint presentations or slide</p> <p>13 decks?</p> <p>14 MS. MAHONEY: Objection.</p> <p>15 THE WITNESS: Yes, sometimes I</p> <p>16 would.</p> <p>17 BY MR. KIEFFER:</p> <p>18 Q. Okay. So you may have created</p> <p>19 this. If you did, likely you think you received</p> <p>20 input from others, right?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. You in your time at</p> <p>23 Actavis saw documents like this from time to</p> <p>24 time, correct?</p>
<p style="text-align: right;">Page 391</p> <p>1 MS. MAHONEY: Objection.</p> <p>2 THE WITNESS: Yes.</p> <p>3 BY MR. KIEFFER:</p> <p>4 Q. All right. If you turn to the</p> <p>5 first -- and we have placed -- these were not</p> <p>6 individually page numbered as they were produced</p> <p>7 to us. So we have supplied page numbering in</p> <p>8 the upper right-hand corner, okay? I'm just</p> <p>9 going to refer you to a few of those pages,</p> <p>10 okay?</p> <p>11 A. Okay.</p> <p>12 Q. All right. Page 2, which is</p> <p>13 really the first substantive page after the</p> <p>14 cover is on the screen in front of you, the</p> <p>15 heading of that slide is "Marketing Goal -</p> <p>16 Maximizing Profit," correct?</p> <p>17 A. Yes.</p> <p>18 Q. And, in fact, that was the goal</p> <p>19 of the marketing department at the time you were</p> <p>20 at Actavis, true?</p> <p>21 MS. MAHONEY: Objection. You can</p> <p>22 also take as much time as you need to</p> <p>23 review the document to get context.</p> <p>24 MR. KIEFFER: Yeah, I just -- we</p>	<p style="text-align: right;">Page 392</p> <p>1 can go through -- the only context you</p> <p>2 need for this question, sir, is the page</p> <p>3 that's in front of you.</p> <p>4 MS. MAHONEY: That's your</p> <p>5 impression. He can take the time he</p> <p>6 needs to get context.</p> <p>7 BY MR. KIEFFER:</p> <p>8 Q. Well, and, respectfully, my</p> <p>9 question, sir, wasn't the document in context.</p> <p>10 My question was in your time at Actavis, the</p> <p>11 goal of the marketing department was, in fact,</p> <p>12 maximizing profit, as stated here on page 2 of</p> <p>13 this exhibit?</p> <p>14 MS. MAHONEY: Objection.</p> <p>15 MS. ZOLNER: Objection, form.</p> <p>16 THE WITNESS: The goal of the</p> <p>17 company is to maximize profit. The goal</p> <p>18 as me of product manager would have</p> <p>19 contribution to that, but I would not be</p> <p>20 the only person that has or the only</p> <p>21 department that has input into launching</p> <p>22 products and having a profitable</p> <p>23 outcome.</p> <p>24 BY MR. KIEFFER:</p>

1 Q. Fair enough. And I actually -- I
2 don't think we disagree on that.
3 You testified the goal of the
4 company was to maximize profit, true?
5 MS. ZOLNER: Objection.
6 THE WITNESS: The goal of any
7 company is to be profitable.
8 BY MR. KIEFFER:
9 Q. There's a difference, I think,
10 between being profitable and having your central
11 goal as maximizing profit. Appreciate that
12 distinction?
13 MS. MAHONEY: Objection.
14 THE WITNESS: I think that's a
15 mischaracterization of what's here.
16 BY MR. KIEFFER:
17 Q. Okay. Let me stick then with
18 what's here.
19 This states "Marketing Goal -
20 Maximizing Profit." Do you understand what take
21 phrase means?
22 A. I have an interpretation of it,
23 yes.
24 Q. My interpretation, and tell me if

1 you think I'm at all in the ballpark, is that it
2 is either the goal of the marketing department
3 at Actavis, the goal of all marketing activities
4 at Actavis or both to maximize profit?
5 MS. MAHONEY: Objection.
6 THE WITNESS: I think our
7 activities contribute to profit.
8 BY MR. KIEFFER:
9 Q. Okay. And without meaning to
10 spend unnecessary time on this or to argue with
11 you, because I don't mean to do either, this
12 doesn't say marketing goal contribute to profit,
13 it says maximizing profit; does it not?
14 MS. MAHONEY: The document speaks
15 for itself.
16 THE WITNESS: The document says
17 what the document says.
18 BY MR. KIEFFER:
19 Q. Okay. And, again, this is a
20 document that you may have created; you're not
21 certain whether you did or not?
22 MS. ZOLNER: Objection.
23 MS. MAHONEY: Objection.
24 MS. ZOLNER: Asked and answered.

1 THE WITNESS: I'm not certain if
2 I had input or not.
3 BY MR. KIEFFER:
4 Q. Possible you did?
5 MS. MAHONEY: Objection.
6 MS. ZOLNER: Objection, asked and
7 answered.
8 THE WITNESS: Many things are
9 possible.
10 BY MR. KIEFFER:
11 Q. Fair enough. Well, and I'm not
12 really trying to get you to speculate, sir. If
13 you look at a document like this and you say
14 there is no way that I ever created that or
15 helped pull some of those slides together, I
16 want you to tell me that, okay?
17 A. Mm-hmm.
18 Q. And you haven't told me that with
19 respect to this document yet, so I'm assuming
20 you agree it's possible you either created this
21 or had a hand in creating it?
22 MS. MAHONEY: Objection, asked
23 and answered.
24 MS. ZOLNER: Objection, form.

1 THE WITNESS: I may have had a
2 piece in creating it. My piece may have
3 been just taking somebody else's work
4 and putting it into PowerPoint without
5 editing content. That's a possibility.
6 BY MR. KIEFFER:
7 Q. Okay. It's one of many
8 possibilities?
9 A. Yes.
10 Q. Okay. Spectrum of possibilities,
11 right?
12 A. Yes.
13 Q. One of which is you were the
14 principal architect of this?
15 MS. MAHONEY: Objection. Now
16 you're badgering the witness.
17 MS. ZOLNER: Objection.
18 MR. KIEFFER: I'm not badgering.
19 MS. MAHONEY: You've asked this
20 question in multiple different ways.
21 You've gotten the same answer every
22 time. You don't like the answer. I
23 appreciate that you don't like the
24 answer, but that's the answer, so we

1 should move on.
 2 BY MR. KIEFFER:
 3 Q. All right. You are not ruling
 4 out the possibility that you were the one that
 5 pulled these materials together that we have
 6 here as -- what's the exhibit, Exhibit 28?
 7 MS. MAHONEY: Objection.
 8 MS. ZOLNER: Asked and answered.
 9 Objection, form.
 10 THE WITNESS: I find it doubtful
 11 that I would have on my own prepared
 12 this document.
 13 BY MR. KIEFFER:
 14 Q. You mean entirely and
 15 independently --
 16 A. Yes.
 17 Q. -- on your own?
 18 MS. ZOLNER: Objection, form.
 19 THE WITNESS: Yes.
 20 BY MR. KIEFFER:
 21 Q. All right. Without input from
 22 others?
 23 MS. ZOLNER: Objection, form.
 24 THE WITNESS: Yes.

1 THE WITNESS: It might have more
 2 than one.
 3 BY MR. KIEFFER:
 4 Q. Okay. Might have more than one
 5 based on what, like how many tablets in a given
 6 package or something like that?
 7 MS. MAHONEY: Objection.
 8 THE WITNESS: Yes.
 9 BY MR. KIEFFER:
 10 Q. Okay. So as I understand --
 11 strike that.
 12 That -- this -- this projection
 13 of future sales units by month was done by SKU
 14 by customer, it was done monthly, and it was
 15 done by the marketing department.
 16 Am I interpreting all that
 17 correctly?
 18 A. I believe so.
 19 Q. So am I correct that the
 20 marketing department at Actavis was able to tell
 21 by customer, by month, exactly how much of a
 22 particular size and strength opioid was being
 23 purchased by customer?
 24 MS. ZOLNER: Objection to form.

1 BY MR. KIEFFER:
 2 Q. Okay. Do me a favor, if you
 3 would, turn to page 4 of that document. Page 4
 4 is entitled "Demand Forecast."
 5 Do you see that?
 6 A. Yes.
 7 Q. Okay. I want to ask you about
 8 the second bullet here. It says "done by sku by
 9 customer monthly by Marketing."
 10 Do you see what I'm referring to
 11 there?
 12 A. Yes, sir.
 13 Q. SKU is an individual product
 14 number. I believe it stands for stock keeping
 15 unit.
 16 Is that what you understand it to
 17 be?
 18 A. Yes.
 19 Q. So, just as an example,
 20 hypothetical example, oxymorphone
 21 extended-release, 7.5 milligrams, that would
 22 have a discrete SKU assigned to it; would it
 23 not?
 24 MS. MAHONEY: Objection.

1 MS. MAHONEY: Objection.
 2 BY MR. KIEFFER:
 3 Q. Marketing had all that
 4 information and, in fact, it sounds like
 5 actually pulled it together each month?
 6 MS. MAHONEY: Objection.
 7 THE WITNESS: I would take issue
 8 with your word we had exactly -- knew
 9 exactly how much a customer would buy
 10 each month. We would base our forecast
 11 on run rate, on history.
 12 BY MR. KIEFFER:
 13 Q. Yeah, historical data?
 14 A. Yes.
 15 Q. Okay. Well, and maybe we're not
 16 communicating and maybe it's my fault. I guess
 17 I didn't necessarily mean that prospectively you
 18 would know precisely what each customer was
 19 buying in terms of a particular type, size and
 20 strength of opioid.
 21 My question was intended to ask
 22 if you looked retrospectively, you had that
 23 data?
 24 MS. ZOLNER: Objection to form.

1 MS. MAHONEY: Objection.
 2 MS. ZOLNER: Objection, vague.
 3 THE WITNESS: Yes.
 4 BY MR. KIEFFER:
 5 Q. So, for example, if there was a
 6 particular customer of Actavis' and you wanted
 7 to see what their purchase history was three
 8 months ago versus six months ago of a particular
 9 opioid in a particular size and strength, you
 10 could do that?
 11 MS. MAHONEY: Objection.
 12 THE WITNESS: I would have access
 13 to unit sales.
 14 BY MR. KIEFFER:
 15 Q. And you said you would have
 16 access to unit sales, did you from time to time
 17 access unit sales information?
 18 MS. ZOLNER: Objection, form.
 19 THE WITNESS: Yes.
 20 BY MR. KIEFFER:
 21 Q. Okay. And for what purposes did
 22 you access unit sales information?
 23 A. For demand forecasting.
 24 Q. Okay. And did part of the -- did

1 part of your efforts at looking at unit sales
 2 information, did part of those involve looking
 3 at past trends in some of Actavis' customers?
 4 MS. MAHONEY: Objection.
 5 THE WITNESS: That could be a
 6 consideration.
 7 BY MR. KIEFFER:
 8 Q. For example, are certain
 9 customers showing an increasing purchase history
 10 with respect to certain products?
 11 A. That could have been taken into
 12 account to -- to project the future.
 13 Q. Did you ever chart those things,
 14 to your recollection?
 15 MS. MAHONEY: Objection.
 16 THE WITNESS: I don't recall.
 17 BY MR. KIEFFER:
 18 Q. If you would, sir, turn to page 8
 19 of the exhibit in front of you.
 20 Page 8 at the top is entitled
 21 "Product Launches," correct?
 22 A. Yes, sir.
 23 Q. Okay. And you were involved with
 24 certain product launches in your time at

1 Actavis?
 2 A. Yes, with some of them.
 3 Q. Multiple?
 4 A. Over the years, yes.
 5 Q. Okay. Any idea how many?
 6 A. No.
 7 Q. Okay. Let me back up and ask you
 8 a question.
 9 You were in the marketing
 10 department at Actavis, correct?
 11 A. Yes.
 12 Q. And there were obviously others
 13 in that department, right?
 14 A. Yes.
 15 Q. Jinping McCormick?
 16 A. Yes.
 17 Q. Okay. She was your boss for a
 18 time?
 19 A. For a time, yes.
 20 Q. And who did she report to?
 21 A. I believe she reported at that
 22 time to Michael Perfetto.
 23 Q. Okay. The marketing department
 24 that you were in at Actavis, was that entire

1 department confined to generic products, or did
 2 they support branded products as well?
 3 A. Yes, no generics.
 4 Q. Only generics?
 5 A. Only generics.
 6 Q. Okay.
 7 A. Let me qualify that, quantify
 8 that.
 9 Only generics but that doesn't
 10 mean that an e-mail didn't come in or something
 11 like that that I had to forward.
 12 Q. Once in a while --
 13 A. A question would come in, right.
 14 Q. Got it, okay, I understand.
 15 Okay. Let me use -- let me use
 16 the word generic in a totally different way,
 17 okay?
 18 A. Okay.
 19 Q. This slide, and you take a minute
 20 to look at it, but it's entitled "Product
 21 Launches," it looks to me, my eye, that this is
 22 talking about kind of big points related to
 23 product launches generically, in other words,
 24 not specific to any particular product launch.

<p style="text-align: right;">Page 405</p> <p>1 Am I interpreting that correctly?</p> <p>2 MS. MAHONEY: Objection.</p> <p>3 MS. ZOLNER: Objection, form.</p> <p>4 BY MR. KIEFFER:</p> <p>5 Q. It doesn't mention specific</p> <p>6 products there and things like that?</p> <p>7 A. Yes, this --</p> <p>8 MS. MAHONEY: Objection.</p> <p>9 THE WITNESS: Yes, this is just</p> <p>10 an overview.</p> <p>11 BY MR. KIEFFER:</p> <p>12 Q. An overview of what the generic</p> <p>13 -- I'm going to call it the generic marketing</p> <p>14 department at Actavis, some of the things it</p> <p>15 does in relation to product launches, true?</p> <p>16 MS. MAHONEY: Objection.</p> <p>17 THE WITNESS: Let me read the</p> <p>18 full page.</p> <p>19 BY MR. KIEFFER:</p> <p>20 Q. Sure.</p> <p>21 A. (Witness reviews document.)</p> <p>22 I'm sorry. Could you repeat your</p> <p>23 question now that I've had a chance to review.</p> <p>24 Q. Yeah, let me try. Page 8 of the</p>	<p style="text-align: right;">Page 406</p> <p>1 exhibit that's in front of you entitled "Product</p> <p>2 Launches" --</p> <p>3 A. Yes.</p> <p>4 Q. -- is it true that the</p> <p>5 information on that page just describes, in</p> <p>6 general terms, some of the things that the</p> <p>7 generic marketing department at Actavis did as</p> <p>8 it relates to product launches; it is not</p> <p>9 focused on any particular product launch?</p> <p>10 MS. MAHONEY: Objection.</p> <p>11 THE WITNESS: I agree with that</p> <p>12 statement, yes.</p> <p>13 BY MR. KIEFFER:</p> <p>14 Q. Okay, fair enough. If you look</p> <p>15 at the bottom portion of the page, this third</p> <p>16 bullet, one of the things that the marketing</p> <p>17 department has identified as doing in connection</p> <p>18 with product launches generally is working with</p> <p>19 sales and contract on launch strategy and</p> <p>20 execution, correct?</p> <p>21 A. Yes.</p> <p>22 Q. This would be the sales function</p> <p>23 of Actavis, true?</p> <p>24 MS. MAHONEY: Objection.</p>
<p style="text-align: right;">Page 407</p> <p>1 THE WITNESS: Yes.</p> <p>2 BY MR. KIEFFER:</p> <p>3 Q. That would include, but</p> <p>4 presumably it would not be limited to, sale</p> <p>5 representatives who, for example, would go call</p> <p>6 on customers, physicians, others?</p> <p>7 MS. MAHONEY: Objection.</p> <p>8 MS. ZOLNER: Objection, form.</p> <p>9 THE WITNESS: Our generic sales</p> <p>10 managers, sales directors do not call on</p> <p>11 physicians.</p> <p>12 BY MR. KIEFFER:</p> <p>13 Q. Okay. They call on wholesalers,</p> <p>14 distributors, others?</p> <p>15 MS. MAHONEY: Objection.</p> <p>16 MS. ZOLNER: Objection to form.</p> <p>17 THE WITNESS: Wholesalers,</p> <p>18 distributors for their assigned</p> <p>19 accounts.</p> <p>20 BY MR. KIEFFER:</p> <p>21 Q. Okay. That's your generic sales</p> <p>22 representatives?</p> <p>23 A. Yes.</p> <p>24 Q. But there are other sales</p>	<p style="text-align: right;">Page 408</p> <p>1 representatives that do call on physicians</p> <p>2 undisputed, right?</p> <p>3 MS. ZOLNER: Objection to form.</p> <p>4 BY MR. KIEFFER:</p> <p>5 Q. The Kadian sales team, for</p> <p>6 example?</p> <p>7 MS. MAHONEY: Objection.</p> <p>8 THE WITNESS: Yes, I believe so.</p> <p>9 That was a different division than I was</p> <p>10 in.</p> <p>11 BY MR. KIEFFER:</p> <p>12 Q. Okay. Turn to the next page, if</p> <p>13 you would, page 9. There's a box at the bottom</p> <p>14 of page 9 that says "New products are the driver</p> <p>15 of growth; product launch success is central to</p> <p>16 our future."</p> <p>17 Do you agree with that statement?</p> <p>18 A. Yes.</p> <p>19 Q. If you turn, and I'll go through</p> <p>20 these fairly quickly, turn to page 11.</p> <p>21 Actually, turn back to page 10. Sorry about</p> <p>22 that.</p> <p>23 Page 10 is captioned "Marketing</p> <p>24 Communications."</p>

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1 Do you see that?

2 A. Yes.

3 Q. And then for several pages behind

4 page 10 there's some examples of different types

5 of marketing communications, right?

6 MS. MAHONEY: Objection.

7 THE WITNESS: That appears to be

8 so.

9 BY MR. KIEFFER:

10 Q. Okay. So if you look at page 11,

11 for example, that identifies marketing

12 communications in the form of corporate ads?

13 A. Yes.

14 Q. Okay. The one on the left that

15 has flowers in a pot says a number of things, a

16 couple of the pieces of information communicated

17 there are that there's "650 generics to market,

18 350 on the way."

19 Do you see that?

20 A. I do.

21 Q. "A pipeline that's always in

22 bloom," right?

23 A. Yes.

24 Q. A pipeline of generics?

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1 THE WITNESS: I believe I was the

2 contact for the ad agency that created

3 that.

4 BY MR. KIEFFER:

5 Q. Okay. You would be kind of the

6 supervisory person at Actavis for this ad?

7 MS. MAHONEY: Objection.

8 THE WITNESS: I would have been

9 the person who directed them to make --

10 create an ad.

11 BY MR. KIEFFER:

12 Q. Got it, okay. All right.

13 How about the one on the right

14 here, that's captioned "The building blocks of

15 all we do," did you have a hand in creating

16 that?

17 MS. MAHONEY: Objection.

18 THE WITNESS: I believe that I

19 was the contract for the ad agency that

20 created it.

21 BY MR. KIEFFER:

22 Q. Okay. And, again, this is

23 focused on generics with the same line, the

24 third one down here referencing "650 generics to

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1 A. Yes.

2 MS. MAHONEY: Objection.

3 BY MR. KIEFFER:

4 Q. Did you have a hand in developing

5 this kind of a corporate ad as what we see here?

6 MS. MAHONEY: Objection.

7 THE WITNESS: I believe so, yes.

8 BY MR. KIEFFER:

9 Q. Okay. I realize some things in

10 our professional lives are easier to remember

11 than others. I would think probably a lot of

12 time and effort and thought goes into these

13 sorts of things, and you probably have some

14 memory of at least some of them that you had a

15 hand in creating; is that fair?

16 MS. MAHONEY: Objection.

17 MS. ZOLNER: Objection, form.

18 THE WITNESS: Possibly, yes.

19 BY MR. KIEFFER:

20 Q. Okay. And this one here that

21 we're looking at on page 11 with the -- the one

22 that says "All the right ingredients," your

23 recollection is you had a hand in creating that?

24 MS. MAHONEY: Objection.

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1 market, 350 on the way," right?

2 A. Yes.

3 Q. Okay. This is -- this is all,

4 and I don't mean to belabor it, but there is a

5 distinction obviously between brand and generic?

6 A. Yes.

7 Q. This is all exclusively generic

8 advertising, marketing, promotion, all those

9 sorts of things, not focused at all on the

10 branded business, true?

11 MS. MAHONEY: Objection.

12 THE WITNESS: It was a corporate

13 awareness ad. I believe that the

14 contents are -- and the information

15 provided is about generics, but it was

16 to let people know that Actavis was in

17 the United States.

18 BY MR. KIEFFER:

19 Q. Okay. If you turn the page over

20 to page 12, here on the right there's an ad,

21 another corporate ad it says "Simply

22 illuminating."

23 Did you have a hand in creating

24 that one?

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1 MS. MAHONEY: Objection.
 2 THE WITNESS: I believe I was the
 3 contact person for the ad agency who
 4 created this.
 5 BY MR. KIEFFER:
 6 Q. Okay. And, again, this is
 7 focused solely on the generic side of the
 8 business, right?
 9 MS. MAHONEY: Objection,
 10 mischaracterizes the testimony.
 11 THE WITNESS: I believe it's a
 12 corporate -- it's a corporate ad that
 13 focuses on generics, but it's to raise
 14 corporate awareness.
 15 BY MR. KIEFFER:
 16 Q. Okay. All right. If you turn to
 17 page 13, there's some examples, it says
 18 "Marketing Communications: Lyrical Sellsheets."
 19 A. Yes.
 20 Q. And lyrical sell sheet is this
 21 example we have here that is a graphic that's
 22 sort of made up of words; is that right?
 23 A. Yes.
 24 Q. Okay. Did you have a hand in the

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1 you would, page 16 that's captioned "Marketing
 2 Communications: Electronic."
 3 You see that?
 4 A. Yes.
 5 Q. All right. And it looks like
 6 this over here on the right-hand side, there is
 7 an Actavis ad, correct?
 8 A. Mm-hmm.
 9 Q. And it looks like that came from
 10 Drug Store News, a trade publication, to you,
 11 also correct?
 12 A. I believe that's what it appears
 13 to be from this screen capture.
 14 Q. Okay. And this particular ad is
 15 for oxycodone hydrochloride in 15-milligram and
 16 30-milligram tablets, correct?
 17 A. Yes.
 18 Q. And it says "Demand, meet
 19 supply," also correct?
 20 A. That's what the headline says.
 21 Q. Okay. And this is the kind of
 22 message whereby Actavis is telling anybody who
 23 is reading Drug Store -- well, strike that.
 24 People that read Drug Store News

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1 creation of these?
 2 MS. MAHONEY: Objection.
 3 THE WITNESS: No.
 4 BY MR. KIEFFER:
 5 Q. Page 15, if you would. This one
 6 says "Marketing Communications: Advertorial."
 7 What's an advertorial?
 8 MS. ZOLNER: Objection,
 9 foundation.
 10 THE WITNESS: It's -- an
 11 advertorial can be used in many
 12 different ways. In this way, I believe
 13 it was used to talk more extensively
 14 about the company.
 15 BY MR. KIEFFER:
 16 Q. Okay. You had a hand in creating
 17 this, I assume, because it's the same type of
 18 thing we saw a few minutes ago?
 19 MS. MAHONEY: Objection.
 20 THE WITNESS: I was the contact
 21 for the advertising agency that created
 22 this ad, yes.
 23 BY MR. KIEFFER:
 24 Q. Okay. Turn to the next page, if

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1 or receive these e-mails include people like
 2 drug stores, distributors, retailers, those
 3 sorts of folks?
 4 MS. MAHONEY: Objection.
 5 MS. ZOLNER: Objection,
 6 foundation.
 7 THE WITNESS: I don't
 8 understand -- I don't have any knowledge
 9 of who Drug Store News' entire
 10 readership includes.
 11 BY MR. KIEFFER:
 12 Q. Would you be the one typically
 13 who would be making the decision to place this
 14 kind of electronic ad in Drug Store News?
 15 MS. ZOLNER: Objection, form.
 16 MS. MAHONEY: Objection.
 17 THE WITNESS: I could propose
 18 where to put things, but the final
 19 decision was not necessarily mine, and
 20 this is not the full ad.
 21 BY MR. KIEFFER:
 22 Q. But, presumably, if you were --
 23 did you ever recommend that any ads be placed in
 24 Drug Store News?

1 A. Yes.
2 Q. Okay. So, presumably, you had
3 some understanding of who they were?
4 A. Yes.
5 MS. MAHONEY: Objection.
6 MS. ZOLNER: Objection to form.
7 BY MR. KIEFFER:
8 Q. I mean, they kind of advertise
9 themselves as the number one source of news,
10 knowledge and networking for professionals in
11 the multibillion dollar retail pharmacy
12 marketplace.
13 Is that generally consistent with
14 your understanding of who they are?
15 MS. MAHONEY: Objection,
16 foundation.
17 MS. ZOLNER: Objection, form.
18 THE WITNESS: I don't know how
19 they characterize themselves.
20 BY MR. KIEFFER:
21 Q. They're a big trade publication,
22 though. That's why you recommended Actavis
23 spend its money to advertise with them, right?
24 MS. ZOLNER: Objection.

1 THE WITNESS: That could have
2 been placed -- that could have been
3 highlighted as a reaction to outside
4 influences that were going on in the
5 market at the time.
6 BY MR. KIEFFER:
7 Q. Do you know?
8 MS. MAHONEY: Objection.
9 BY MR. KIEFFER:
10 Q. Do you recall that specifically?
11 A. Not specifically.
12 (Document marked for
13 identification as Myers Deposition
14 Exhibit No. 29.)
15 BY MR. KIEFFER:
16 Q. Sir, I've just handed Exhibit 29
17 to you. This is a slightly different version of
18 an e-mail you looked at earlier. It's the one
19 with the White Rabbit reference. I think this
20 is maybe a little further on in the string
21 perhaps than what was shown to you.
22 A. Okay.
23 Q. But let me -- let me ask you to
24 turn to the second page -- now wait a minute.

1 MS. MAHONEY: Objection.
2 MS. ZOLNER: Form, foundation.
3 THE WITNESS: I recommended that
4 Actavis spend their money with many
5 different trade publications.
6 BY MR. KIEFFER:
7 Q. Okay. And this particular ad,
8 before we leave it, for oxycodone hydrochloride
9 tablets, this is Actavis telling the readership
10 of Drug Store News that it has the ability to
11 supply the demand for those particular opioids,
12 correct?
13 MS. MAHONEY: Objection.
14 THE WITNESS: That's the
15 implication.
16 BY MR. KIEFFER:
17 Q. Okay. There -- I've seen a
18 number of documents and communications in this
19 case where -- in preparation for your deposition
20 where Actavis is emphasizing as a marketing
21 message its ability to supply the relevant
22 demand. That was a consistent theme in a lot of
23 marketing communications; was it not?
24 MS. MAHONEY: Objection.

1 Turn to the third page of that exhibit, which
2 has a number in the lower right-hand corner
3 ACTAVIS0819310.
4 All right. You were asked a
5 number of questions about this section
6 pertaining to oxymorphone earlier.
7 Do you recall those, generally?
8 A. Yes, sir.
9 MS. ZOLNER: Objection, form.
10 BY MR. KIEFFER:
11 Q. Okay. I have just a few
12 follow-ups on that, okay. The first sentence
13 here states, "We successfully launched
14 oxymorphone on Friday, July 15th with over 75%
15 market share."
16 It states that, correct?
17 A. It does state that.
18 Q. Now, did I understand you to say
19 earlier that you think the term "market share"
20 there is being used imprecisely or is a bit of a
21 misnomer to what's intended to be communicated?
22 MS. MAHONEY: Objection.
23 THE WITNESS: Yes, I believe that
24 to be the case.

1 BY MR. KIEFFER:
 2 Q. And I thought I understood you to
 3 say earlier, but I want to make sure that I
 4 understood your answer, I thought I understood
 5 you to say that what's referenced here, the 75%,
 6 was in reference to the previous -- in reference
 7 to what the monthly sales for the branded
 8 product Opana ER had been; is that what you
 9 said?
 10 A. I believe something similar to
 11 that. That's what I'm -- there's no way we had
 12 a 75% market share, so I'm assuming how that was
 13 interpreted by the person who took the notes.
 14 Q. Okay. This oxymorphone product
 15 was a generic equivalent of Opana ER made by
 16 Endo Labs, correct?
 17 A. Yes.
 18 Q. And a very specific goal of the
 19 product launch of oxymorphone was to try to
 20 acquire share that or sales that had previously
 21 gone to the Opana branded product, correct?
 22 MS. MAHONEY: Objection.
 23 THE WITNESS: Our goal with the
 24 launch was to build awareness that the

1 75% of what the comparable Opana product would
 2 have sold in a given month?
 3 MS. MAHONEY: Objection.
 4 THE WITNESS: Clarify that. I
 5 believe that the 75% that she is saying
 6 here is -- it could be the units that
 7 Opana used to sell. Let my characterize
 8 that as shipping a unit is not a sale to
 9 a patient.
 10 BY MR. KIEFFER:
 11 Q. Well, not when the unit ships,
 12 right?
 13 A. It may not ever turn into a -- to
 14 a sale to a patient.
 15 Q. Typically, they do. I mean,
 16 typically, wholesalers and distributors and
 17 retailers don't just buy this stuff to let it
 18 sit on their shelves and go bad, true?
 19 MS. MAHONEY: Objection.
 20 THE WITNESS: All of those
 21 companies that you mentioned also can
 22 return that product for a full refund
 23 from my company if it does not sell.
 24 BY MR. KIEFFER:

1 strengths were available once again so
 2 that doctors would know that these
 3 strengths were available for their
 4 patients that they felt they were most
 5 appropriate for.
 6 BY MR. KIEFFER:
 7 Q. Understood. But the goal of
 8 building awareness is to increase sales?
 9 MS. MAHONEY: Objection.
 10 MS. ZOLNER: Objection, form.
 11 THE WITNESS: The goal of running
 12 a business is to sell product.
 13 BY MR. KIEFFER:
 14 Q. Right. I mean, what's referenced
 15 here in the first sentence is this 75% market
 16 share phrase, correct?
 17 MS. MAHONEY: Objection.
 18 THE WITNESS: Yes, but I've
 19 stated before that I -- that that is
 20 wrong.
 21 BY MR. KIEFFER:
 22 Q. Right, you interpret that as on
 23 July 15th, the product launch by Actavis of
 24 oxymorphone resulted in Actavis acquiring over

1 Q. Understood. But in your
 2 experience, these products typically sold?
 3 MS. ZOLNER: Object to form.
 4 MS. MAHONEY: Objection.
 5 THE WITNESS: I have no idea what
 6 the return rate was on the initial
 7 shipments of Opana ER.
 8 BY MR. KIEFFER:
 9 Q. Okay. Well, fair enough.
 10 Regardless I don't want to get us bogged down.
 11 This 75% market share, you
 12 interpret that as related to prior -- 75% in
 13 relation to what Opana ER would have done in a
 14 given month perhaps tablets or product, perhaps
 15 dollar sales; you're not sure which?
 16 MS. ZOLNER: Object to form.
 17 MS. MAHONEY: Objection, asked
 18 and answered.
 19 THE WITNESS: It would not have
 20 been dollar sales.
 21 BY MR. KIEFFER:
 22 Q. Okay. So you think it's product,
 23 product volume?
 24 MS. MAHONEY: Objection.

1 MS. ZOLNER: Object to form.
 2 THE WITNESS: I believe the
 3 spirit of what she is reporting here is
 4 the successful launch and shipment of
 5 product on time on a specific date.
 6 BY MR. KIEFFER:
 7 Q. Was 75% -- actually, she says
 8 over 75% of -- in your interpretation what Opana
 9 had been doing?
 10 MS. MAHONEY: Objection, asked
 11 and answered.
 12 THE WITNESS: I don't know where
 13 she came up with the 75%.
 14 BY MR. KIEFFER:
 15 Q. Okay, fair enough. Okay. Let me
 16 skip down here a little bit.
 17 She states, "We are focusing on
 18 creating awareness and want to target physicians
 19 to continue to write and increase their
 20 scripts."
 21 Do you see that?
 22 A. Let me see. (Witness reviews
 23 document.)
 24 What does the sentence start

1 appropriate for their patients.
 2 Q. Okay. Now, you didn't write this
 3 material we have here in front of us on page
 4 19310, right?
 5 A. No, sir.
 6 Q. Okay. And do you have a specific
 7 recollection of this meeting?
 8 A. No, I don't.
 9 Q. Okay. And I take it -- how do
 10 you pronounce Karen's last name?
 11 A. Stoedter.
 12 Q. I take it you haven't talked to
 13 her recently and asked her to interpret for you
 14 what she meant here?
 15 A. No.
 16 MS. MAHONEY: Objection.
 17 BY MR. KIEFFER:
 18 Q. Okay. So you're kind of giving
 19 this your own interpretation, particularly as
 20 she references the reference to increasing these
 21 scripts, right?
 22 MS. MAHONEY: Objection. That's
 23 actually what you're asking him to do.
 24 THE WITNESS: Ask the question

1 with? Oh, okay, I see.
 2 Q. "We are focusing on creating
 3 awareness and want to target physicians to
 4 continue to write and increase their scripts,"
 5 correct?
 6 A. Yes.
 7 Q. Okay. That kind of speaks for
 8 itself, doesn't it?
 9 MS. MAHONEY: Objection.
 10 THE WITNESS: I don't know how
 11 you are interpreting that.
 12 BY MR. KIEFFER:
 13 Q. Well, increase in scripts would
 14 certainly appear to be increasing the
 15 prescriptions of this particular product,
 16 oxymorphone?
 17 A. It's not increasing the
 18 prescriptions of oxymorphone. It's not to get
 19 more patients on oxymorphone. It's to build
 20 awareness of the two strengths that we had
 21 launched. To build -- to increase sales from
 22 zero, because the brand had discontinued the
 23 product, to back to whatever it was deemed by
 24 the doctors felt those strengths were

1 again.
 2 BY MR. KIEFFER:
 3 Q. Yeah. You're just giving us your
 4 own interpretation of what Ms. Stoedter has
 5 written here about physicians increasing
 6 scripts, correct?
 7 MS. MAHONEY: Objection.
 8 THE WITNESS: Yes.
 9 BY MR. KIEFFER:
 10 Q. Okay. All right. She goes on to
 11 state here, we have booked Pharmacy Times,
 12 August, and will work with major wholesalers and
 13 chains to target doctors and patients to get the
 14 word out to utilize the generic.
 15 Do you see that?
 16 A. Yes, I do.
 17 Q. Okay. You took issue earlier
 18 with the reference to targeting doctors and
 19 patients, did I understand, yes?
 20 A. Yes.
 21 Q. Okay. Certainly, major chains,
 22 retail chains, they interface with patients,
 23 right?
 24 MS. ZOLNER: Objection to form.

1 MS. MAHONEY: Objection.
 2 BY MR. KIEFFER:
 3 Q. Target has a pharmacy, Publix has
 4 a pharmacy, right?
 5 MS. MAHONEY: Objection.
 6 THE WITNESS: They all have
 7 pharmacies, and they do interact with
 8 patients, but they don't actively sell
 9 or promote drugs to patients.
 10 BY MR. KIEFFER:
 11 Q. Would it be a problem, in your
 12 view, if Actavis was working with major
 13 wholesalers and chains to target doctors and
 14 patients --
 15 MS. MAHONEY: Objection.
 16 BY MR. KIEFFER:
 17 Q. -- about its oxymorphone product?
 18 MS. MAHONEY: Objection.
 19 MS. ZOLNER: Object to form,
 20 foundation.
 21 THE WITNESS: That is an
 22 erroneous statement. Karen Stoedter is
 23 not a marketing professional. She is
 24 merely the scribe, and she is

1 interpreting a fast-paced conversation.
 2 BY MR. KIEFFER:
 3 Q. No, I'm asking you if -- assume
 4 with me for a moment that Actavis was
 5 undertaking activities whereby it was working
 6 with major wholesalers and chains to target
 7 doctors and patients for this particular generic
 8 opioid oxymorphone, would that be a problem, in
 9 your view?
 10 MS. MAHONEY: Objection, calls
 11 for speculation.
 12 MS. ZOLNER: Objection,
 13 foundation.
 14 THE WITNESS: I would find that
 15 very surprising and unlikely.
 16 BY MR. KIEFFER:
 17 Q. Okay. Whether it's surprising
 18 and unlikely or not, if it took place, would it
 19 be a problem, in your view?
 20 MS. MAHONEY: Objection.
 21 MS. ZOLNER: Objection, calls for
 22 speculation.
 23 THE WITNESS: You are asking for
 24 my personal opinion?

1 BY MR. KIEFFER:
 2 Q. Sure.
 3 MS. MAHONEY: Objection.
 4 BY MR. KIEFFER:
 5 Q. As a 25-year professional in the
 6 generic pharmaceuticals field, if the company
 7 you worked for was working with major
 8 wholesalers and chains to target doctors and
 9 patients to get the word -- to target doctors
 10 and patients to get the word out to utilize the
 11 generic, namely this opioid oxymorphone, would
 12 that be a problem in your view?
 13 MS. MAHONEY: Objection.
 14 MS. ZOLNER: Objection, form.
 15 Objection, calls for speculation.
 16 THE WITNESS: It would depend on
 17 the nature of the contact.
 18 BY MR. KIEFFER:
 19 Q. Might be okay?
 20 MS. MAHONEY: Objection.
 21 THE WITNESS: I don't have an
 22 opinion on it.
 23 BY MR. KIEFFER:
 24 Q. Okay. Read for us if you would,

1 sir, what you've written in the e-mail here on
 2 the first page of this particular exhibit?
 3 A. From me to Karen Stoedter, how
 4 much do you wanna bet this becomes a --
 5 MS. MAHONEY: This is not a
 6 reading exercise. You can read it to
 7 yourself.
 8 THE WITNESS: Oh, okay. I
 9 thought he was asking --
 10 MR. KIEFFER: I actually did want
 11 you to read it, since it's your words.
 12 MS. MAHONEY: It's on the Elmo,
 13 so if you want to read it into the
 14 record, you can feel free.
 15 MR. KIEFFER: Well, the witness
 16 wrote it. I think if I'm going to ask
 17 him --
 18 MS. MAHONEY: If you want to read
 19 it into the record, you can feel free.
 20 The witness will read it to himself.
 21 MR. KIEFFER: Okay. You don't
 22 want him to read the words that he
 23 wrote.
 24 MS. MAHONEY: The witness will

1 read it to himself, and you can read it
 2 into the record.
 3 BY MR. KIEFFER:
 4 Q. All right. "How much you wanna
 5 bet this becomes a competition? First Jinping
 6 will include charts and a graph. Then, because
 7 the gauntlet had been thrown, I'll add custom
 8 photos and graphics... maybe music will play
 9 when you open the mail. Something
 10 'pharmaceutical.' Like the song 'White
 11 Rabbit'... one pill makes you bigger, and one
 12 pill makes you small... and the ones that mother
 13 gives you, don't do anything at all!"
 14 Did I read that correctly?
 15 A. I believe that you did.
 16 Q. Okay. You made a refer -- you
 17 know that song; you're familiar with the lyrics,
 18 right?
 19 A. Vaguely familiar with it, yes.
 20 Q. Looks like a little more than
 21 vague here. I looked it up and it looks like
 22 you had it pretty much perfect?
 23 MS. MAHONEY: Objection.
 24 THE WITNESS: I've sung along to

1 but I could see how it could be viewed that way.
 2 Do you recall that testimony?
 3 MS. MAHONEY: Objection.
 4 THE WITNESS: I don't recall what
 5 I was looking at when I made that
 6 assertion.
 7 BY MR. KIEFFER:
 8 Q. Okay. Certainly this -- in
 9 context, this could certainly be viewed as a
 10 reference to opioids; could it not?
 11 MS. ZOLNER: Objection.
 12 MS. MAHONEY: Objection.
 13 BY MR. KIEFFER:
 14 Q. It's not an unreasonable
 15 interpretation of what you've written here, is
 16 it?
 17 MS. MAHONEY: Objection.
 18 THE WITNESS: You are
 19 mischaracterizing the conversation.
 20 BY MR. KIEFFER:
 21 Q. I'm not asking about the
 22 conversation. I'm asking about the words you
 23 wrote on this page.
 24 MS. MAHONEY: Is there a question

1 the radio.
 2 BY MR. KIEFFER:
 3 Q. As have I. Jefferson Airplane
 4 song, right?
 5 A. I believe so.
 6 Q. It's about drug abuse; is it not?
 7 MS. MAHONEY: Objection.
 8 THE WITNESS: I don't know what
 9 it's about.
 10 BY MR. KIEFFER:
 11 Q. Honestly?
 12 MS. ZOLNER: Objection.
 13 MS. MAHONEY: Objection.
 14 THE WITNESS: It's artistic and
 15 subject to the person who hears it. I
 16 believe they're talking about Alice in
 17 Wonderland. How you interpret it -- I
 18 mean, isn't that a portion of that song?
 19 It was 30 years ago, 40 years ago.
 20 BY MR. KIEFFER:
 21 Q. You reference to subject to the
 22 person who hears it, earlier when you were being
 23 asked questions about this, you volunteered, you
 24 said, well, that wasn't a reference to opioids,

1 pending?
 2 BY MR. KIEFFER:
 3 Q. There is.
 4 In the context of a marketing
 5 campaign to launch a new generic opioid, your
 6 reference here to this particular song and these
 7 pills, one could look at that and certainly take
 8 that as a reference to opioid pain medications;
 9 that's not an unreasonable interpretation of
 10 what you've written?
 11 MS. MAHONEY: Objection.
 12 MS. ZOLNER: Objection, form.
 13 THE WITNESS: It is unreasonable
 14 in the context of the conversation. If
 15 you look at the previous dialogue back
 16 and forth between me and Karen Stoedter,
 17 you'll notice that I complimented her on
 18 her quick note taking, that it was quite
 19 complimentary, and then we went back and
 20 forth on how she has set the bar high,
 21 and then everybody has to take a turn
 22 doing it, which means that everybody
 23 will try to do a better job than the
 24 person before. And we were taking a

<p style="text-align: right;">Page 437</p> <p>1 facetious, humorous look at how could</p> <p>2 you increase this to make the meeting</p> <p>3 notes more interesting, humorous,</p> <p>4 whatever, how could you embellish those</p> <p>5 in a farce.</p> <p>6 This meeting note is not about</p> <p>7 the launch of just opioids. This weekly</p> <p>8 meeting is part of a entire business</p> <p>9 review of all products could be on here.</p> <p>10 So that conversation was not related to</p> <p>11 the launch of any specific product,</p> <p>12 including oxymorphone.</p> <p>13 BY MR. KIEFFER:</p> <p>14 Q. Do you recall how that song ends?</p> <p>15 A. No, I don't.</p> <p>16 Q. Feed your head, feed your head;</p> <p>17 is that familiar to you at all?</p> <p>18 MS. MAHONEY: Objection.</p> <p>19 THE WITNESS: No.</p> <p>20 BY MR. KIEFFER:</p> <p>21 Q. Okay. In the time that you were</p> <p>22 -- I've got like two more questions.</p> <p>23 In the time you were at Actavis,</p> <p>24 did you ever participate in any kind of</p>	<p style="text-align: right;">Page 438</p> <p>1 conversation with anybody in the marketing</p> <p>2 department, even just around the proverbial</p> <p>3 water cooler where you or anybody else said</p> <p>4 maybe we're adding fuel to the fire of this</p> <p>5 opioid epidemic?</p> <p>6 MS. MAHONEY: Objection.</p> <p>7 THE WITNESS: I don't remember</p> <p>8 ever discussing the opioid epidemic, so</p> <p>9 to speak, if it is one, with anyone at</p> <p>10 work.</p> <p>11 BY MR. KIEFFER:</p> <p>12 Q. Not ever, never came up?</p> <p>13 A. I don't have --</p> <p>14 MS. MAHONEY: Objection.</p> <p>15 THE WITNESS: I don't have any</p> <p>16 recollection.</p> <p>17 BY MR. KIEFFER:</p> <p>18 Q. Okay. What you all were focused</p> <p>19 on were efforts aimed at marketing and</p> <p>20 increasing sales and maximizing profit, true?</p> <p>21 MS. ZOLNER: Objection.</p> <p>22 MS. MAHONEY: Objection.</p> <p>23 MS. ZOLNER: Mischaracterizes</p> <p>24 testimony. Objection, form.</p>
<p style="text-align: right;">Page 439</p> <p>1 THE WITNESS: We were focused on</p> <p>2 our individual goals as employees.</p> <p>3 BY MR. KIEFFER:</p> <p>4 Q. Which certainly included</p> <p>5 increasing sales and maximizing profit?</p> <p>6 MS. MAHONEY: Objection,</p> <p>7 mischaracterizes the testimony, asked</p> <p>8 and answered.</p> <p>9 THE WITNESS: Not necessarily</p> <p>10 only those things or that specifically</p> <p>11 in the way it's being characterized.</p> <p>12 BY MR. KIEFFER:</p> <p>13 Q. And I'm not implying, sir, it's</p> <p>14 only that, but that is certainly a part of it?</p> <p>15 MS. MAHONEY: Objection. There's</p> <p>16 no question pending.</p> <p>17 MS. ZOLNER: Are we out of time?</p> <p>18 MS. MAHONEY: Thank you.</p> <p>19 MR. KIEFFER: Are we done?</p> <p>20 That's all I've got. Thank you for your</p> <p>21 time, sir.</p> <p>22 THE WITNESS: Thank you. Have a</p> <p>23 good day.</p> <p>24 THE VIDEOGRAPHER: The time is</p>	<p style="text-align: right;">Page 440</p> <p>1 5:54 p.m. December 13th, 2018, going off</p> <p>2 the record. This is the end of the</p> <p>3 videotape deposition.</p> <p>4 (Witness excused.)</p> <p>5 ---</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>

1 CERTIFICATION

2 I, MARGARET M. REIHL, a
 3 Registered Professional Reporter,
 4 Certified Realtime Reporter, Certified
 5 Shorthand Reporter, Certified LiveNote
 6 Reporter and Notary Public, do hereby
 7 certify that the foregoing is a true and
 8 accurate transcript of the testimony as
 9 taken stenographically by and before me
 10 at the time, place, and on the date
 11 hereinbefore set forth.

12 I DO FURTHER CERTIFY that I
 13 am neither a relative nor employee nor
 14 attorney nor counsel of any of the
 15 parties to this action, and that I am
 16 neither a relative nor employee of such
 17 attorney or counsel, and that I am not
 18 financially interested in the action.

19
 20
 21 -----
 Margaret M. Reihl, RPR, CRR, CLR
 22 CSR #XI01497 Notary Public
 23
 24

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1 ACKNOWLEDGMENT OF DEPONENT

2
 3 I, DAVID A. MYERS, JR., do hereby
 4 certify that I have read the foregoing
 5 pages, and that the same is a correct
 6 transcription of the answers given by me
 7 to the questions therein propounded,
 8 except for the corrections or changes in
 9 form or substance, if any, noted in the
 10 attached Errata Sheet.
 11
 12
 13

14 _____
 DAVID A. MYERS, JR. DATE

15
 16 Subscribed and sworn to before me this

17 _____ day of _____, 2018.

18 My commission expires: _____

19 _____
 Notary Public
 20
 21
 22
 23
 24